



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly.

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Capitol Building
Des Moines, IA 50319
Telephone: (515)281-3568

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

Schedule for Rule Making 2005

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	***May 18***	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
May 18	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '06
June 29	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sept. 14	Oct. 19	Jan. 16 '06
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '06
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '06
Aug. 24	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '06
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '06
Sept. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '06	Apr. 10 '06
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '06	Apr. 24 '06
Oct. 21	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '06	Feb. 8 '06	May 8 '06
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '06	Feb. 22 '06	May 22 '06
Nov. 16	Dec. 7	Dec. 27	Jan. 11 '06	Jan. 13 '06	Feb. 1 '06	Mar. 8 '06	June 5 '06
Dec. 2	Dec. 21	Jan. 10 '06	Jan. 25 '06	Jan. 27 '06	Feb. 15 '06	Mar. 22 '06	June 19 '06
Dec. 14	Jan. 4 '06	Jan. 24 '06	Feb. 8 '06	Feb. 10 '06	Mar. 1 '06	Apr. 5 '06	July 3 '06
Dec. 30	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
15	Friday, December 31, 2004	January 19, 2005
16	Friday, January 14, 2005	February 2, 2005
17	Friday, January 28, 2005	February 16, 2005

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.west@legis.state.ia.us

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

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The Administrative Rules Review Committee will hold a special meeting on Tuesday, January 4, 2005, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"

Certification and licensure; use of test administrator; record keeping; confidentiality,
1.1, 3.4(1), 3.4(2), 3.14, 4.2, 4.5, 4.6, 4.7(3), 4.14, 5.5(3) to 5.5(5), 5.8(7), 7.4(3),
7.4(4), 8.4(3), 8.4(4), 10.5, 13.5(2)"b," 13.5(3) to 13.5(6), 13.6(7), 13.6(8), 15.7, Notice **ARC 3854B** 12/8/04

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Disposal of state personal property, adopt ch 111, Filed **ARC 3853B** 12/8/04

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Farm deer—monitoring for CWD, 64.34(10)"a," 64.35(6), 64.104 to 64.119, 66.14,
Filed **ARC 3901B** 12/22/04

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

Interest in a retail establishment, 16.2, Notice **ARC 3889B** 12/22/04

CORRECTIONS DEPARTMENT[201]

Sex offender management and treatment—risk assessment, 38.2, 38.3, Filed **ARC 3860B** 12/8/04

Probation services—case auditing system, supervision fees, 42.1(4), 42.1(16), Filed **ARC 3859B** 12/8/04

Residential facilities—case auditing system, 43.1(19), 43.1(20), Filed **ARC 3858B** 12/8/04

Work release—case auditing system, 44.1(4), 44.1(5)"c," 44.6(4), 44.9, 44.9(1)"e,"
44.9(4)"a," Filed **ARC 3857B** 12/8/04

Parole—case auditing system, 45.1(2), 45.1(3), 45.1(5), 45.7(1), 45.7(2),
45.7(4), Filed **ARC 3856B** 12/8/04

OWI programs, 47.1(2), 47.1(7), 47.2, 47.2(4) to 47.2(11), 47.3(3) to 47.3(6), 47.3(9),
47.4, Filed **ARC 3855B** 12/8/04

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Housing fund—American dream downpayment initiative,
25.4(4), Filed Emergency After Notice **ARC 3884B** 12/22/04

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43.34(8) to 43.34(10), 43.34(15), 43.34(16), 43.34(18), 43.34(19), 43.35, 43.35(5), 43.35(7),
43.36, 43.38(3), 43.39(4), 43.39(5), 43.43(2), 43.43(6)"b," Filed **ARC 3877B** 12/8/04

ELDER AFFAIRS DEPARTMENT[321]

Older Iowans legislature, rescind ch 20, Filed **ARC 3892B** 12/22/04

Adult day services programs, 24.1, 24.30, Notice **ARC 3875B** 12/8/04

Assisted living programs, 25.1, 25.2, 25.22(3)"t," 25.29(1)"e," Notice **ARC 3703B** Terminated **ARC 3876B** 12/8/04

Assisted living programs, 25.1, 25.2, 25.22(3)"t," 25.29, Notice **ARC 3878B** 12/8/04

Elder group homes, 29.1, 29.9, Notice **ARC 3874B** 12/8/04

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"

Reinstatement of lapsed licenses—fees, 2.1, Notice **ARC 3902B** 12/22/04

Professional development, 7.2, 7.3, 7.4(3), 7.4(4), Notice **ARC 3903B** 12/22/04

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NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Air pollution—special requirements for visibility protection, 22.9, Notice **ARC 3871B** 12/8/04

Training fires; controlled burn of demolished buildings, 23.2(2), 23.2(3)"g" and "j," Notice **ARC 3872B** 12/8/04

Federal effluent and pretreatment standards—references updated,

60.2, 62.4, 62.5, 63.1(1)"a," Filed Without Notice **ARC 3870B** 12/8/04

Confinement feeding operations; open feedlots, 65.1, 65.2(1), 65.2(2), 65.9(2), ch 65 div II,
65.100 to 65.112, ch 65 appendices A and E, Notice **ARC 3873B** 12/8/04

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Advisory opinions, 1.2(1), Notice **ARC 3896B** 12/22/04
 Employee sales of goods or services, 1.7(7), Notice **ARC 3897B** 12/22/04
 Reporting of state party building fund contributors, 4.24, Notice **ARC 3898B** 12/22/04
 Executive branch—misuse of public property, 6.8, Notice **ARC 3899B** 12/22/04

HUMAN SERVICES DEPARTMENT[441]

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INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Variable annuity contracts—producers, 31.6, Notice **ARC 3881B** 12/8/04
 Electronic delivery of accident and health group insurance certificates, 40.25, Notice **ARC 3891B** 12/22/04

IOWA FINANCE AUTHORITY[265]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]“umbrella”

Iowa aftercare services rent subsidy program, adopt ch 22, Notice **ARC 3890B** 12/22/04

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Lands and waters conservation fund program, 27.1 to 27.4, 27.5(1), 27.5(2), 27.6,
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 Camping restrictions at game management areas, 51.11, Filed **ARC 3866B** 12/8/04
 Gladys Black Eagle Refuge, 52.1(2)“c,” Notice **ARC 3862B** 12/8/04
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 Metal detector use in state areas, 64.1 to 64.5, 64.5(1), 64.6, 64.7,
 64.7(1), 64.8, 64.9, Filed **ARC 3869B** 12/8/04
 Fish stocking procedures and fees for private waters, adopt ch 79, Filed **ARC 3865B** 12/8/04
 Aquatic invasive species, adopt ch 90, Filed **ARC 3864B** 12/8/04
 Nonresident deer hunting, 94.8(3), 94.8(4), Notice **ARC 3861B** 12/8/04
 Wild turkey spring hunting—hunting season for youth; transportation tags, 98.4, 98.7,
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 Social workers, 280.6(4)“b”(1), Filed **ARC 3845B** 12/8/04
 Interpreters for the hearing impaired, adopt chs 360, 364, Notice **ARC 3843B** 12/8/04

PUBLIC HEALTH DEPARTMENT[641]

Automated external defibrillator grant program, adopt ch 143,

Notice **ARC 3850B**, also Filed Emergency **ARC 3849B** 12/8/04
 Certificate of need program, 202.1(7), 202.1(11), 202.1(12), 202.3(2), 202.3(3), Filed **ARC 3841B** 12/8/04
 Certificate of need program, 202.1(9), 202.1(13), 202.1(14), Notice **ARC 3842B** 12/8/04

PUBLIC SAFETY DEPARTMENT[661]

Apartment building accessibility—elevators, 16.720(2),

Notice **ARC 3886B**, also Filed Emergency **ARC 3885B** 12/22/04

REVENUE DEPARTMENT[701]

State board of tax review; conduct of appeals and rules of practice and procedure,

chs 1, 2, Notice **ARC 3895B** 12/22/04
 Investment tax credits; corporate tax credits, 42.2(10), 42.17, 42.19(2)“a,” 52.10(2), 52.10(5),
 52.14, 52.20, 52.22(2)“a,” 52.22(3), 58.9, Notice **ARC 3882B** 12/8/04
 Property rehabilitation tax credit; university-based research utilization program tax credit,
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TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Organization; contracts for professional services; purchasing, 1.4 to 1.7, 2.3(7)"b"(1) and (5),
 2.3(7)"d," 5.1(2)"f," 5.7(1)"g," 5.15, 5.20; rescind ch 6; 7.1, 7.2, 8.3, 13.1(2), 14.4, 18.5(3)"a,"
 18.5(5), 18.6(4) to 18.6(11), 18.12(1)"b" and "f," Filed **ARC 3887B** 12/22/04

TRANSPORTATION DEPARTMENT[761]

Fleet deletions; destruction of motor vehicle credentials, 500.1, 500.4(2)"a" and "b,"
 500.10 to 500.25, Filed **ARC 3883B** 12/22/04
 Motorcycle rider education, 635.3(2)"f," 635.3(3)"c," 635.4(1)"e," 635.5, Notice **ARC 3846B** 12/8/04
 First aid and medical treatment for railroad employees, 810.4, Notice **ARC 3888B** 12/22/04

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Unauthorized changes in telecommunications service, 22.23(1), 22.23(2)"a"(3),
 22.23(2)"d"(4)"2," 22.23(2)"d"(5)"2," 22.23(2)"e," Notice **ARC 3900B** 12/22/04

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2007.

Senator Michael Connolly
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 Altoona, Iowa 50009

Gary Dickey Jr.
Administrative Rules Coordinator
 Governor's Ex Officio Representative
 Capitol, Room 11
 Des Moines, Iowa 50319

To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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ALCOHOLIC BEVERAGES DIVISION[185]

Interest in a retail establishment, 16.2 IAB 12/22/04 ARC 3889B	Board Room 1918 SE Hulsizer Rd. Ankeny, Iowa	January 11, 2005 2 p.m.
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DENTAL EXAMINERS BOARD[650]

Mandatory reporting, 30.4, 31.14 IAB 11/10/04 ARC 3779B (See also ARC 3777B)	Board Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	January 13, 2005 10 a.m.
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ELDER AFFAIRS DEPARTMENT[321]

Adult day services programs, 24.1, 24.30 IAB 12/8/04 ARC 3875B (ICN Network)	Great River AEA 16 3601 West Avenue Rd. Burlington, Iowa	January 6, 2005 1 p.m.
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Loess Hills AEA 13 24997 Hwy 92 Council Bluffs, Iowa	January 6, 2005 1 p.m.
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Room 114, Dairy Education Center Northeast Iowa Community College 1527 Hwy 150 South Calmar, Iowa	January 6, 2005 1 p.m.
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Room 107, North Hall University of Iowa End of North Madison St. Iowa City, Iowa	January 6, 2005 1 p.m.
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Room 22 Iowa Lakes Community College 18th St. Estherville, Iowa	January 6, 2005 1 p.m.
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Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 6, 2005 1 p.m.
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Assisted living programs, 25.1, 25.2, 25.22, 25.29 IAB 12/8/04 ARC 3878B (ICN Network)	Great River AEA 16 3601 West Avenue Rd. Burlington, Iowa	January 6, 2005 1 p.m.
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Loess Hills AEA 13 24997 Hwy 92 Council Bluffs, Iowa	January 6, 2005 1 p.m.
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ELDER AFFAIRS DEPARTMENT[321] (Cont'd)
(ICN Network)

	Room 114, Dairy Education Center Northeast Iowa Community College 1527 Hwy 150 South Calmar, Iowa	January 6, 2005 1 p.m.
	Room 107, North Hall University of Iowa End of North Madison St. Iowa City, Iowa	January 6, 2005 1 p.m.
	Room 22 Iowa Lakes Community College 18th St. Estherville, Iowa	January 6, 2005 1 p.m.
	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 6, 2005 1 p.m.
Elder group homes, 29.1, 29.9 IAB 12/8/04 ARC 3874B (ICN Network)	Great River AEA 16 3601 West Avenue Rd. Burlington, Iowa	January 6, 2005 1 p.m.
	Loess Hills AEA 13 24997 Hwy 92 Council Bluffs, Iowa	January 6, 2005 1 p.m.
	Room 114, Dairy Education Center Northeast Iowa Community College 1527 Hwy 150 South Calmar, Iowa	January 6, 2005 1 p.m.
	Room 107, North Hall University of Iowa End of North Madison St. Iowa City, Iowa	January 6, 2005 1 p.m.
	Room 22 Iowa Lakes Community College 18th St. Estherville, Iowa	January 6, 2005 1 p.m.
	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 6, 2005 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Special requirements for visibility protection, 22.9 IAB 12/8/04 ARC 3871B	Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	January 14, 2005 1 p.m.
Emission standards for contaminants, 23.2 IAB 12/8/04 ARC 3872B	Public Library 3520 86th St. Urbandale, Iowa	January 10, 2005 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)

Open feedlots, 65.1, 65.2, 65.9, ch 65 div II, 65.100 to 65.112, appendices A and E IAB 12/8/04 ARC 3873B	Fire Station 1904 N. Broadway St. Red Oak, Iowa	January 4, 2005 8:30 a.m.
	Rooms 142–146 DMACC Carroll Campus 906 N. Grant Rd. Carroll, Iowa	January 4, 2005 6:30 p.m.
	Events Center 800 W. 18th St. Spencer, Iowa	January 5, 2005 8:30 a.m.
	Lime Creek Nature Center 3501 Lime Creek Rd. Mason City, Iowa	January 5, 2005 6:30 p.m.
	Rooms Iowa A/B, Third Floor Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	January 7, 2005 8:30 a.m.

HUMAN SERVICES DEPARTMENT[441]

Community care, 7.1, ch 186 IAB 12/22/04 ARC 3893B	Second Floor Conference Room Story County Human Services Bldg. 126 S. Kellogg St. Ames, Iowa	January 13, 2005 10 to 11 a.m.
	Lower Level CPI Conference Room Pottawattamie County DHS Office 417 E. Kanesville Blvd. Council Bluffs, Iowa	January 12, 2005 10 a.m.
	Sixth Floor Conference Room (605A & 605B) Scott County Administrative Center 428 Western Ave. Davenport, Iowa	January 14, 2005 10 a.m. to 12 noon
	Conference Room 104 City View Plaza 1200 University Ave. Des Moines, Iowa	January 13, 2005 10 a.m.
	Third Floor Conference Room Nesler Centre 799 Main St. Dubuque, Iowa	January 14, 2005 9 a.m.
	Conference Room Johnson County DHS Office 911 N. Governor St. Iowa City, Iowa	January 13, 2005 1:30 to 2:30 p.m.
	Conference Room 3 Wapello County DHS Office 120 E. Main St. Ottumwa, Iowa	January 13, 2005 10 to 11 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

	Fourth Floor ICN Room Trosper-Hoyt Bldg. 822 Douglas St. Sioux City, Iowa	January 12, 2005 10 to 11 a.m.
	Room 420 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	January 13, 2005 10 to 11:30 a.m.
Medicaid—reimbursement for hospital care, 79.1(5) IAB 12/8/04 ARC 3880B (See also ARC 3452B , IAB 7/7/04)	Fifth Floor Northeast Conference Rm. Hoover State Office Bldg. Des Moines, Iowa	December 29, 2004 11 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Governor's award for quality care, ch 54 IAB 12/8/04 ARC 3848B	Conference Room 319 Lucas State Office Bldg. Des Moines, Iowa	January 4, 2005 10 a.m.
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INSURANCE DIVISION[191]

Producers, 31.6 IAB 12/8/04 ARC 3881B	330 Maple St. Des Moines, Iowa	December 29, 2004 2 p.m.
Electronic delivery of accident and health group insurance certificates, 40.25 IAB 12/22/04 ARC 3891B	330 Maple St. Des Moines, Iowa	January 12, 2005 10 a.m.

IOWA FINANCE AUTHORITY[265]

Iowa aftercare services rent subsidy program, ch 22 IAB 12/22/04 ARC 3890B	Main Conference Room, Suite 250 100 E. Grand Ave. Des Moines, Iowa	January 11, 2005 10 to 11 a.m.
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NATURAL RESOURCE COMMISSION[571]

Gladys Black Eagle Refuge, 52.1(2) IAB 12/8/04 ARC 3862B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 4, 2005 10:30 a.m.
Preference points for nonresident deer hunters, 94.8 IAB 12/8/04 ARC 3861B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 4, 2005 10:30 a.m.

NATURAL RESOURCES DEPARTMENT[561]

Groundwater hazard documentation, 9.1, 9.2 IAB 12/8/04 ARC 3844B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 29, 2004 2 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Interpreters for the hearing impaired, chs 360, 364 IAB 12/8/04 ARC 3843B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	January 6, 2005 9 to 10 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Elevators, 16.720(2) IAB 12/22/04 ARC 3886B (See also ARC 3885B herein)	Fire Marshal Division Conference Rm. 401 SW Seventh St. Des Moines, Iowa	January 18, 2005 11 a.m.
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TRANSPORTATION DEPARTMENT[761]

Motorcycle rider education, 635.3 to 635.5 IAB 12/8/04 ARC 3846B	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	January 5, 2005 10 a.m. (If requested)
First aid and medical treatment for railroad employees, 810.4 IAB 12/22/04 ARC 3888B	First Floor South Conference Room 800 Lincoln Way Ames, Iowa	January 13, 2005 10 a.m. (If requested)

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CAPITAL INVESTMENT BOARD, IOWA[123]

CITIZENS’ AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Grow Iowa Values Board[264]

Iowa Finance Authority[265]

EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL, IOWA[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

GENERAL SERVICES DEPARTMENT[401]

HUMAN INVESTMENT COUNCIL[417]

HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

Persons With Disabilities Division[431]

Latino Affairs Division[433]

Status of African-Americans, Division on the[434]

Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]
INFORMATION TECHNOLOGY DEPARTMENT[471]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
VOLUNTEER SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 3889B**ALCOHOLIC BEVERAGES
DIVISION[185]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 123.21 and 123.186, the Alcoholic Beverages Division of the Iowa Department of Commerce hereby gives Notice of Intended Action to amend Chapter 16, “Trade Practices,” Iowa Administrative Code.

In July 2000, the Alcoholic Beverages Division initiated a rule making to reexamine application of Iowa Code section 123.45. In the rule making, the Division sought to draw a distinction between the ownership interests prohibited by Iowa Code section 123.45 and remote business connections or passive investment relations that do not pose the risk of market monopoly.

Notice of Intended Action to amend rule 16.2(123) was published in the August 9, 2000, Iowa Administrative Bulletin as **ARC 0036B**. The amendment was Adopted and Filed and was published in the November 1, 2000, Iowa Administrative Bulletin as **ARC 0250B**, and became effective on December 6, 2000.

In January 2001, the Iowa Wholesale Beer Distributors Association, together with various wholesale beer distributors, filed a petition for judicial review challenging the amended rule. In the case, Dave Auen, et al., v. Alcoholic Beverages Division of the Iowa Department of Commerce, the district court upheld the amendment as a valid exercise of the rule-making authority of the Division.

In May 2001, the Iowa Wholesale Beer Distributors Association and the beer distributors appealed the decision of the district court to the Iowa Supreme Court. The Iowa Supreme Court ruled that the district court erred in upholding the rule, and declared the amended rule null and void. The court remanded the case to the district court with instructions to return the case to the Alcoholic Beverages Division for rule-making proceedings in compliance with the Iowa Administrative Procedure Act. This rule making is initiated pursuant to the court order issued in the case, Dave Auen, et al., v. Alcoholic Beverages Division of the Iowa Department of Commerce.

The proposed amendment does not contain a waiver provision as the proposed amendment reflects the language of the statute.

The Division has considered the criteria enumerated in Iowa Code section 17A.4A and has determined that the proposed amendment will not have a regulatory effect on small business. Also, the amendment will not have a fiscal impact to the state because no liquor licenses, wine permits or beer permits with a remote industry member ownership interest were issued pursuant to the rule.

There will be a public hearing on the proposed amendment at 2 p.m., Tuesday, January 11, 2005, in the Board Room, 1918 SE Hulsizer Road, Ankeny, Iowa 50021. Persons may present their views at the public hearing orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Alcoholic Beverages Division by

telephone at (515)281-7414 or by fax at (515)281-7385 no later than 4:30 p.m. on Monday, January 10, 2005.

Any interested person may make written suggestions or comments on the proposed amendment on or before Tuesday, January 11, 2005. Written comments should be addressed to Judy K. Seib, Administrative Rules Administrator of the Alcoholic Beverages Division at the above address, faxed to (515)281-7385, or E-mailed to Seib@IowaABD.com.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 185—16.2(123) as follows:

185—16.2(123) Interest in a retail establishment.

16.2(1) An industry member is prohibited, directly or indirectly, from:

- a. Acquiring or holding a partial or complete ownership interest in a retail establishment.
- b. Acquiring or holding an interest in the real or personal property owned, occupied or used by the retailer in the conduct of the retail establishment.
- c. Acquiring a mortgage on the real or personal property owned by the retailer.
- d. Guaranteeing any loan or paying a financial obligation of the retailer, including, but not limited to, personal loans, home mortgages, car loans, operating capital obligations, or utilities.
- e. Providing financial, legal, administrative or other assistance to a retailer to obtain a license or permit.

16.2(2) ~~For the purposes of this rule, a subsidiary or an affiliate of an industry member shall not be considered to have any interest in the ownership, conduct or operation of a retailer provided all of the following conditions are satisfied:~~

- a. ~~The industry member and the retail establishment do not share any common officers or directors.~~
- b. ~~The industry member does not control the retail establishment.~~
- c. ~~The industry member is not involved, directly or indirectly, in the operation of the retail establishment.~~
- d. ~~The retail establishment is free from control or interference by the industry member with respect to the retailer’s ability to make choices as to the types, brands and quantities of alcoholic beverages purchased and sold.~~
- e. ~~The retail establishment sells brands of alcoholic beverages that are produced or distributed by competing industry members with no preference given to the industry member that holds a financial interest in the retailer.~~
- f. ~~There is no exclusion, in whole or in part, of alcoholic beverages sold or offered for sale by competing industry members that constitutes a substantial impairment of commerce.~~
- g. ~~The retail establishment shall not purchase more than 20 percent of the total annual liquor sales, 20 percent of the total annual wine sales, and 20 percent of the total annual beer sales (measured by gallons) from the industry member.~~
- h. ~~The primary business of the retail establishment is not the sale of alcoholic beverages.~~

i. ~~All purchases of alcoholic beverages by the retail establishment are made pursuant to Iowa’s three-tier system as provided for in Iowa Code chapter 123.~~

16.2(3) A retail establishment shall file verification with the alcoholic beverages division that it is in compliance with

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

the conditions set forth in this rule upon application, renewal or request of the agency.

16.2(4) This rule is not subject to waiver or variance in specific circumstances.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

ARC 3902B

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Fees and Charges,” Iowa Administrative Code.

This amendment is intended to clarify the Board’s rules regarding the fees for reinstatement of a lapsed license and the end date for late renewals.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before January 11, 2005. Comments should be directed to Gleen Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021, or by telephoning (515)281-7360.

This amendment is intended to implement Iowa Code sections 542B.13, 542B.15, 542B.20 and 542B.30.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 193C—2.1(542B) as follows:

193C—2.1(542B) General statement. Fees are fixed in such an amount as will defray the expense of administering board responsibilities. Fees are charged in accordance with the following table:

Type of fee	Amount
Renewal	
Active license renewal	\$100
Inactive license renewal	\$40
Reinstatement of lapsed license <i>(In addition to the reinstatement fee, the applicant for reinstatement must also pay the appropriate prorated reinstated license fee below.)</i>	\$100
Reinstatement of inactive to active license	\$60

Type of fee	Amount
New or reinstated license <i>(In addition to the appropriate prorated reinstated license fee, the applicant for reinstatement must also pay the reinstatement fee above.)</i>	\$100 Prorated at six-month intervals
Application for examinations	
Fundamentals of Engineering	\$25
Fundamentals of Land Surveying	\$30
Principles and Practice of Engineering	\$45
Principles and Practice of Land Surveying	\$45
Examinations	
Fees for NCEES examinations are paid directly to the examination service at the rate established by contract based upon cost of the examination materials and processing expenses.	Variable
Iowa State Specific Land Surveying Examination	\$30
Application for licensure by comity as a professional engineer or land surveyor	\$150
Certificates	
Initial professional engineer or land surveyor certificate	\$15
Additional or duplicate certificate	\$25
Engineer or land surveyor intern certificate	No charge
Check returned for insufficient funds	\$15
Verification of records for lapsed licensees	\$15 per verification
Late renewal fee (for renewals received postmarked after December 31 and before February 1)	\$25

ARC 3903B

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 7, “Professional Development,” Iowa Administrative Code.

These amendments are intended to clarify the Board’s rules regarding the definitions of various professional development activities and the calculation of professional development hours. These amendments also increase the maximum allowable professional development hours for independent study from six PDH per biennium to ten PDH per biennium.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before January 11, 2005. Comments should be directed to Glean Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021, or by telephoning (515)281-7360.

These amendments are intended to implement Iowa Code sections 272C.2, 272C.3, 542B.6 and 542B.18.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **193C—7.2(542B,272C)** by adopting the following **new** definition:

"Independent study" means any course or activity in which there is no real-time interaction between the training provider and the licensee, such as courses offered on the Internet.

ITEM 2. Amend rule 193C—7.3(542B,272C) as follows:

193C—7.3(542B,272C) Professional development hours.

7.3(1) Allowable activities. Licensees may earn professional development hours by participating in a variety of activities. The following is a sample list of allowable activities and is not all-inclusive:

- a. Successful completion of college courses;
- b. Successful completion of continuing education courses;
- c. Successful completion of correspondence, televised, videotaped, and other short courses or tutorials;
- d. Successful completion of courses on-line via the Internet;
- e. Active participation in seminars, in-house courses, workshops, technical committees of professional engineering organizations, and professional conventions;
- f. Teaching or instructing in the activities set forth above if such teaching or instruction is outside of the licensee's regular employment duties and if the licensee can document such teaching activity or instruction was newly developed and presented for the first time;
- g. Authoring published papers, articles or books;
- h. Obtaining patents;
- i. Attendance at satellite down-link video courses;
- j. Participation on an NCEES examination development committee;
- k. Attendance at engineering college graduate research seminars.

All of the allowable activities listed above must meet the requirements and restrictions set forth in this chapter to be accepted by the board.

7.3(1.2) PDH conversion. The following chart illustrates the conversion from other units to PDH:

ACTIVITY	PDH
1 College or unit semester hour Credit for qualifying college or community college courses will be based upon course credit established by the college.	45 PDH per semester hour
1 College or unit quarter hour Credit for qualifying college or community college courses will be based upon course credit established by the college.	30 PDH per quarter hour

ACTIVITY	PDH
1 Continuing Education Unit as defined in 193C IAC 7.2(542B,272C)	10 PDH
1 Hour Contact hour attendance in a class, course, seminar, or professional or technical presentation made at a meeting, in-house training session, convention or conference. Credit for qualifying seminars and workshops will be based on 1 PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional or technical society meetings will earn PDH units for the actual time of each program.	1 PDH per hour
Teaching of 1 Contact hour teaching a class, course, seminar, or a professional or technical presentation a. Teaching credit is valid for teaching a course or seminar for the first time only. b. Teaching credit does not apply to full-time faculty. c. Teaching credit is limited to 10 PDH per biennial renewal period.	2 PDH per hour
Each published paper, article, or book Credit for published material is earned in the biennium of publication.	10 PDH per publication
Active participation in a professional or technical society. Credit for active participation in professional and technical societies is limited to 2 PDH per renewal period per organization and requires that a licensee serve as an officer or actively participate in a committee of the organization. PDH credits are earned for a minimum of one year's service.	2 PDH per organization per renewal period
Each patent Credit for patents is earned in the biennium the patent is issued.	10 PDH per patent
NCEES examination development committee participation including the writing and grading of examination questions, writing reference materials for examinations, and evaluating past examination question performance. Licensees may claim a maximum of 15 PDH per biennial renewal period for participation in this activity.	15 PDH per renewal period 3 PDH per hour of committee participation

7.3(2.3) Determination of credit. The board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit. No preapproval of offerings will be issued. The board may deny any renewal or reinstatement upon a determination of insufficient or unsatisfactory continuing education.

ITEM 3. Amend subrule 7.4(3) as follows:

7.4(3) Independent study. To be readily acceptable by the board, independent independent study with no real time interaction between the provider and the licensee may be accepted by the board when as defined in rule 7.2(542B,272C) must meet all of the following criteria:

1. A written evaluation process is completed by the independent study provider; and
2. A certificate of satisfactory completion is issued by the provider; and
3. ~~Evaluation~~ An evaluation assessment is issued to the licensee by the provider; and

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

4. Documentation supporting such independent studies is maintained by the licensee and provided to the board as required by subrule 7.8(2).

A maximum of ~~six~~ *ten* professional development hours of independent study activity will be allowed per biennium per licensee.

ITEM 4. Amend subrule 7.4(4) as follows:

7.4(4) Exclusions. Types of continuing education activities which will be excluded from allowable continuing education are those in which it is not evident that the activity relates directly to the licensee's practice of professional engineering or land surveying or the management of the business concerns of the licensee's practice, or which do not comply with the board's administrative rules. ~~Activities~~ *Examples of activities* that do not qualify as continuing education ~~are as follows include the following:~~

- Regular employment;
- Toastmasters club meetings;
- Service club meetings or activities;
- Personal estate planning;
- Banquet speeches unrelated to engineering;
- Professional society business meeting portions of technical seminars;
- Financial planning/investment seminars;
- Foreign travel not related to engineering study abroad;
- Personal self-improvement courses;
- Real estate licensing courses;
- Stress management;
- Trade shows;
- Peer review;
- Accreditation review. ;
- *Independent study or self-study that does not meet the requirements of subrule 7.4(3);*
 - *Basic CAD and fundamental computer application courses;*
 - *Undergraduate engineering seminars.*

ARC 3896B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 1, "Iowa Ethics and Campaign Disclosure Board," Iowa Administrative Code.

The proposed amendment clarifies that a governmental entity not under the Board's jurisdiction may request an advisory opinion from the Board so long as the underlying issue involved is subject to the Board's jurisdiction.

The proposed amendment does not contain a waiver provision as no obligation is being imposed.

Any interested person may make written comments on the proposed amendment on or before January 11, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics

and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code Supplement section 68B.32A(11) as amended by 2004 Iowa Acts, chapter 1091, section 10.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 1.2(1) as follows:

1.2(1) Who may request opinion. Any person subject to the board's jurisdiction may request a board advisory opinion, including a local official or local employee seeking an opinion on the application of the ethics laws in Iowa Code chapter 68B. *A governmental entity not under the board's jurisdiction may request a board advisory opinion on an issue subject to the board's jurisdiction.* An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request.

ARC 3897B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 1, "Iowa Ethics and Campaign Disclosure Board," Iowa Administrative Code.

The proposed amendment clarifies that the Board's Executive Director and Legal Counsel shall follow the same procedure as do members of the Board when requesting consent to sell goods or services to a person subject to the regulatory authority of the Board.

The proposed amendment does not contain a waiver provision as the requirement is mandated by statute.

Any interested person may make written comments on the proposed amendment on or before January 11, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code Supplement section 68B.4 as amended by 2004 Iowa Acts, chapter 1091, section 5.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Amend subrule 1.7(7) as follows:

1.7(7) Employee sales. *Since the board's executive director and legal counsel is an "official" as defined in Iowa Code section 68B.2(17), the board's executive director and legal counsel shall follow the procedure for requesting consent to sell goods or services to a person subject to the board's regulatory authority as set out in rule 351—1.7(68B).* The procedure for a board employee to request consent to sell goods or services to a person subject to the board's regulatory authority is governed by rule 351—6.11(68B).

ARC 3898B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The proposed amendment permits a state statutory political committee (state party committee) to receive contributions from a corporation, insurance company, or financial institution when such contributions are placed in a building fund account. The state party committee is then required to disclose these contributions.

The proposed amendment does not contain a waiver provision as the Board may require such information pursuant to statute.

Any interested person may make written comments on the proposed amendment on or before January 11, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code Supplement sections 68A.402A(1)"k" and 68A.503.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt new rule 351—4.24(68A) as follows:

351—4.24(68A) Reporting of state party building fund contributors. Pursuant to Federal Election Commission Advisory Opinion 2004-28, the board will permit a state statutory political committee (state party committee) to receive contributions from corporations, insurance companies, and financial institutions when those contributions are placed in the state party building fund account, the contributions are used to pay for costs associated with the building, and the contributions are disclosed pursuant to this rule.

A state party committee filing a state party building fund report under this rule shall use either the report form pre-

scribed by the board or a computer-generated report so long as the report includes the information required under subrule 4.24(2).

4.24(1) Period covered. A state party building fund report shall cover the time period from January 1 through December 31 of the previous year.

4.24(2) Information to be disclosed. The following information shall be disclosed on a state party building fund report:

a. The name and address of the state party committee.

b. The name and address of each person who makes a contribution in excess of \$200, or contributions in the aggregate that exceed \$200 during the period covered, to the state party building fund. If no contributions were received for the fund, the report shall disclose \$0.00 as contributions received.

c. The date and the amount of the contribution. If aggregate contributions from one person are received that exceed \$200, the amount to be disclosed shall be the total amount received from that person for the period covered and the date to be disclosed shall be the date of the last contribution.

d. The total amount of all contributions of \$200 or less received during the period covered. This total amount shall be disclosed as being received from "unitemized" with no date of contribution.

e. The signature and date of the individual filing the state party building fund report.

4.24(3) Place of filing. A state party building fund report shall be filed with the board at 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319, or by fax at (515)281-3701.

4.24(4) Time of filing. A state party building fund report shall be filed on or before January 31 of each year. If mailed, the report must bear a United States Postal Service postmark dated on or before the due date. A faxed report must be submitted on or before 11:59 p.m. on the due date. If January 31 falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date shall be extended to the next working day when the board office is open.

4.24(5) Failure to file. If the board determines that a state party committee has failed to timely file a state party building fund report, the state party committee is subject to the possible imposition of board sanctions.

This rule is intended to implement Iowa Code Supplement sections 68A.402A(1)"k" and 68A.503.

ARC 3899B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 6, "Executive Branch Ethics," Iowa Administrative Code.

The Board is required by Iowa Code Supplement section 68B.32A(12) to adopt a rule prohibiting the misuse of public

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

property by officials and employees of the executive branch as well as by candidates for statewide office. The proposed amendment defines the misuse of public property.

The proposed amendment does not contain a specific waiver provision. The Board does have sole discretion to waive a rule pursuant to 351—15.10(17A).

Any interested person may make written comments on the proposed amendment on or before January 11, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code Supplement section 68B.32A(12).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** rule 351—6.8(68B) as follows:

351—6.8(68B) Misuse of public property. Iowa Code Supplement section 68B.32A(12) directs the board to establish rules relating to the misuse of public property by officials, employees, and candidates for statewide office.

6.8(1) Definition of public property. "Public property" means any real or personal property owned or controlled by the state of Iowa including but not limited to buildings, facilities, equipment, supplies, funds, records, files, and materials.

6.8(2) Prohibited uses. The following are deemed to be the misuse of public property by an official, employee, or candidate for statewide office:

a. Using public property to engage in an outside employment or activity that leads to an unacceptable conflict of interest as prohibited in Iowa Code section 68B.2A(1)"a."

b. Using public property to knowingly and purposefully send, receive, or view obscene material. "Obscene material" means any material depicting or describing the genitals, sex acts, masturbation, excretory functions, or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value.

c. Using public property for personal financial gain. This prohibition does not apply to the receipt of lawful compensation for the performance of official state duties.

d. Using public property for a personal benefit to the detriment of the state.

e. Removing public property from a state building or facility for personal use.

f. Using public property to engage in political activities as prohibited in 351—Chapter 5.

This rule is intended to implement Iowa Code Supplement section 68B.32A(12).

ARC 3893B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6 and 2003 Iowa Acts, chapter 178, section 44, the Department of Human Services proposes to amend Chapter 7, "Appeals and Hearings," and to rescind Chapter 186, "Child Welfare Targeted Case Management Services," and adopt new Chapter 186, "Community Care," Iowa Administrative Code.

These amendments:

- Rescind Chapter 186. Child welfare targeted case management was an initiative that was not approved by the federal Centers for Medicare and Medicaid. Consequently, there was no funding source, and the initiative was never implemented.

- Replace Chapter 186 with a new chapter titled "Community Care." This chapter is the first in a series of amendments to implement the redesign of the Iowa child welfare system mandated by 2003 Iowa Acts, chapter 178, section 44. Community care will be provided through a single statewide performance-based contract to families that have service needs but do not meet the criteria for service through the Department.

The Department has issued a Request for Proposal (# BDPS-05-027) for bidders on the community care contract. Final bid proposals were due December 15, 2004. The Department expects to complete contract negotiations in January 2005 and begin referrals on March 1, 2005.

The Department will refer families to the community care provider when there has been an abuse report on the family and the Department's assessment indicates either that:

- Abuse is not confirmed, but the child is believed to be at moderate or high risk of future abuse or neglect;
- Abuse is confirmed but not founded, and the child is believed to be at moderate or high risk of future abuse or neglect; or
- Abuse is founded, but the child is six years of age or older and is believed to be at a low risk of repeated abuse.

The purpose of community care is to keep the children in the family safe from abuse and neglect, keep the family intact, prevent the need for further intervention by the Department, and build linkages to community-based resources that improve the family's safety, health, stability, and well-being.

The community care provider will be responsible for connecting families to community resources and services, monitoring services, providing ongoing assessment, and responding to family needs in crisis. The family will not be referred to juvenile court, and the Department will not have an open service case on the family.

Disputes over the provision of community care will be addressed through the community care provider's dispute resolution process. However, the family does have appeal rights with the Department over the referral to community care and when the provider's dispute resolution process has been exhausted without a resolution satisfactory to the family.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments do not provide for waivers in specified situations because families may request a waiver under the Department's general rule on exceptions at rule 441—1.8(17A,217). Also, allowing families dissatisfied with the provision of community care services to appeal to the Department provides a benefit to these families.

Any interested person may make written comments on the proposed amendments on or before January 12, 2005. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold public hearings on these amendments at the places and times listed below.

Story County Human Services Building Second Floor Conference Room 126 South Kellogg Street Ames, Iowa	January 13, 2005 10 to 11 a.m.
Pottawattamie County DHS Office Lower Level CPI Conference Room 417 E. Kanessville Boulevard Council Bluffs, Iowa	January 12, 2005 10 a.m.
Scott County Administrative Center Sixth Floor Conference Room (605A & 605B) 428 Western Avenue Davenport, Iowa	January 14, 2005 10 a.m. to 12 noon
City View Plaza Conference Room 104 1200 University Avenue Des Moines, Iowa	January 13, 2005 10 a.m.
Nesler Centre Third Floor Conference Room 799 Main Street Dubuque, Iowa	January 14, 2005 9 a.m.
Johnson County DHS Office Conference Room 911 N. Governor Street Iowa City, Iowa	January 13, 2005 1:30 to 2:30 p.m.
Wapello County DHS Office Conference Room #3 120 E. Main Street Ottumwa, Iowa	January 13, 2005 10 to 11 a.m.
Trosper-Hoyt Building Fourth Floor ICN Room 822 Douglas Street Sioux City, Iowa	January 12, 2005 10 to 11 a.m.
Pinecrest Office Building Room 420 1407 Independence Avenue Waterloo, Iowa	January 13, 2005 10 to 11:30 a.m.

People appearing at these meetings may make oral presentations or submit written comments. Any persons who intend to attend a public hearing and have special requirements such as hearing or vision impairments should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement Iowa Code section 234.6 and 2003 Iowa Acts, chapter 178, section 44.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **441—7.1(17A)**, definition of “aggrieved person,” numbered paragraph “**4**,” by adding the following two **new** bulleted paragraphs:

- Who has not been referred to community care as provided in rule 441—186.2(234).
- Who has been referred to community care as provided in rule 441—186.2(234) and has exhausted the community care provider's dispute resolution process.

ITEM 2. Rescind 441—Chapter 186 and adopt the following **new** chapter in lieu thereof:

CHAPTER 186 COMMUNITY CARE

PREAMBLE

These rules define and structure community care services. Services are provided through a single statewide performance-based contract for the development and delivery of community care in all rural and urban areas of the state.

441—186.1(234) Definitions.

“At risk” means that potential exists within the family for some level of child abuse or neglect.

“Child” means a person who is under 18 years of age.

“Child abuse assessment” means the process by which the department carries out its legal mandate to ascertain if child abuse has occurred, record findings, develop conclusions based upon evidence, address the safety of the child and family functioning, engage the family in services if needed, enhance family strengths, and address needs in a culturally sensitive manner.

“Community care” means child- and family-focused services and supports provided to families referred from the department. Services shall be geared toward keeping the children in the family safe from abuse and neglect; keeping the family intact; preventing the need for further intervention by the department, including removal of the child from the home; and building ongoing linkages to community-based resources that improve the safety, health, stability, and well-being of families served.

“Confirmed” means the department has determined that a preponderance of credible evidence (greater than 50 percent) indicates that child abuse has occurred.

“Department” means the Iowa department of human services.

“Family” means the family members comprising the household where the alleged victim of child abuse resides.

“Founded” means the department has determined that a preponderance of credible evidence (greater than 50 percent) indicates that child abuse occurred and the circumstances meet the criteria for placement on the central abuse registry.

“Not confirmed” or “unconfirmed” means the department has determined that there is not a preponderance of credible evidence (greater than 50 percent) indicating that child abuse has occurred.

441—186.2(234) Eligibility. A family's eligibility for community care is established by department referral to the community care contractor.

186.2(1) Referral indicated. The department will refer a family for community care when all of the following conditions exist:

- A child abuse assessment has identified a need for community care.
- The child abuse assessment findings are one of the following:

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) Abuse is not confirmed, but the child is believed to be at moderate to high risk of future abuse or neglect; or

(2) Abuse is confirmed but not founded, and the child is believed to be at moderate or high risk of future abuse or neglect; or

(3) Abuse is founded, the child is six years of age or older, and the child is believed to be at low risk of repeat abuse.

c. The family has voluntarily agreed to be referred to community care.

186.2(2) Referral not indicated. The department will not refer a family for community care when:

a. A child has been adjudicated a child in need of assistance. Court orders are not used as a mechanism for families to receive community care.

b. Any child in the household has an open child welfare service case with the department.

441—186.3(234) Services provided. The department has a single contract for development and delivery of community care in all rural and urban areas of the state. The contractor shall meet the following expectations, either directly, through subcontract, or through a provider network or consortium.

186.3(1) The community care contractor shall serve families at risk of child abuse or neglect referred through the contract, including families from a wide range of cultural, racial, and ethnic groups and those with limited English proficiency.

186.3(2) The community care contractor shall assess individual child needs, family functioning, and potential child and family risk factors.

186.3(3) The community care contractor shall respond to the needs of community care families in crisis.

186.3(4) The community care contractor shall connect families to a wide range of community resources and services that are responsive to the families' presenting needs at the time of referral, in keeping with community standards of care and evidenced-based research.

186.3(5) The community care contractor shall connect families to community resources and services that are responsive to the identified needs of the family.

186.3(6) The community care contractor shall have a service referral network that is readily accessible, available, and convenient to families in all areas served by the contract.

186.3(7) The community care contractor shall provide ongoing assessment of the services provided.

186.3(8) The community care contractor shall ensure coordination of referrals from the department's offices statewide.

186.3(9) The community care contractor shall monitor and document service utilization.

186.3(10) The community care contractor shall achieve minimum performance targets as specified in the contract.

441—186.4(234) Appeals. A person or family may appeal the decisions of a community care contractor only after exhausting the contractor's dispute resolution process, as outlined in the contract with the department for provision of community care. If it is verified that the contractor's dispute resolution process has been exhausted, a person or family who wants to appeal the decisions of a community care contractor may do so under the provisions of 441—Chapter 7.

These rules are intended to implement Iowa Code section 234.6 and 2003 Iowa Acts, chapter 178, section 44.

INSURANCE DIVISION**Notice of Approval of Workers' Compensation Rate Filing**

Pursuant to the provisions of Iowa Code chapter 515A, the National Council on Compensation Insurance, Inc. (NCCI) submitted a rate filing on October 15, 2004. Notice of the filing was published in the Iowa Administrative Bulletin on November 10, 2004. No request for a hearing on the rate filing was received.

The filing proposes an overall decrease of 2.6% in the voluntary and residual market rates effective January 1, 2005, to account for the estimated savings in overall costs due to the provisions of Iowa House File 2581. Based on an independent review of the NCCI proposal, the Commissioner finds the proposed manual rates not to be excessive, inadequate, or unfairly discriminatory.

Therese M. Vaughan, Commissioner of Insurance, ordered that the October 15, 2004, rate filing is approved to be effective January 1, 2005.

ARC 3891B**INSURANCE DIVISION[191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 514B.23, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 40, "Health Maintenance Organizations," Iowa Administrative Code.

The proposed rule authorizes the electronic delivery of accident and health group insurance certificates in an efficient manner by health maintenance organizations, while guaranteeing that individual plan members still receive the important information contained in such group insurance certificates, as required by Iowa Code section 514B.9 and as allowed by the Uniform Electronic Transactions Act, Iowa Code chapter 554D.

This chapter does not provide for waivers. Persons seeking waivers must petition the Division for a waiver in the manner set forth under 191—Chapter 4.

Any interested person may make written comments on the proposed rule on or before January 12, 2005. Written comments may be sent to Angela Burke Boston, Assistant Commissioner, Insurance Division, 330 Maple, Des Moines, Iowa 50319. Comments may also be submitted electronically to angela.burke.boston@iwd.state.ia.us.

A public hearing will be held at the office of the Insurance Division at 10 a.m. on Wednesday, January 12, 2005. The Division is located at 330 Maple, Des Moines, Iowa.

This rule is intended to implement Iowa Code section 514B.23.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

INSURANCE DIVISION[191](cont'd)

The following **new** rule is proposed.

191—40.25(514B) Electronic delivery of accident and health group insurance certificates.

40.25(1) Purpose. The purpose of this rule is to authorize the electronic delivery of accident and health group insurance certificates in an efficient manner by health maintenance organizations and group policyholders, while guaranteeing that individual plan members still receive the important information contained in such group insurance certificates, as required by Iowa Code section 514B.9 and as allowed by the uniform electronic transactions Act, Iowa Code chapter 554D.

40.25(2) Scope. This rule shall apply to all health maintenance organizations holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapter 514B.

40.25(3) Electronic delivery—health maintenance organizations. The health maintenance organization will be deemed to comply with the requirements of Iowa Code section 514B.9 if the group insurance certificate is delivered to the group policyholder electronically and if:

a. The health maintenance organization takes appropriate and necessary measures to ensure that the system for furnishing group insurance certificates results in actual receipt of transmitted information by group policyholders, which may be done by:

- (1) Using return-receipt electronic mail features;
- (2) Periodic reviews or surveys to confirm receipt of the transmitted information; or
- (3) Any other method approved by the insurance commissioner.

b. The electronic documents contain the same content and appear in reasonably the same format as the certificates previously approved by the insurance commissioner.

c. Each group policyholder is provided notice, through electronic means or in writing, apprising the group policyholder of the fact that the certificate will be furnished electronically, of the significance of the certificate and the group policyholder's obligations under this rule, and of the group policyholder's right to request and receive a paper copy of the document for each participant.

d. Upon request of any group policyholder, the health maintenance organization furnishes paper copies of the group insurance certificate that was delivered to the group policyholder electronically, so that the group policyholder may provide them to participants that have requested paper copies.

40.25(4) Electronic delivery—group policyholders. The group policyholder will be deemed to comply with the requirements of Iowa Code section 514B.9 if the group insurance certificate is delivered to the individual plan member electronically and if:

a. The group policyholder takes appropriate and necessary measures to ensure that the system for furnishing group insurance certificates results in actual receipt of transmitted information by participants, which may be done by:

- (1) Using return-receipt electronic mail features;
- (2) Periodic reviews or surveys to confirm receipt of the transmitted information; or
- (3) Any other method approved by the insurance commissioner.

b. The electronic documents contain the same content and appear in reasonably the same format as the certificates previously approved by the insurance commissioner.

c. Each participant is provided notice, through electronic means or in writing, apprising the participant of the fact

that the certificate will be furnished electronically, of the significance of the certificate, and of the participant's right to request and receive, free of charge, a paper copy of the document.

d. Upon request of any participant, the group policyholder furnishes, free of charge, a paper copy of the group insurance certificate that was delivered to the participant electronically.

This rule is intended to implement Iowa Code chapter 514B.

ARC 3890B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(5), 16.5(10), 16.5(13), 16.5(17), and 16.15(7) and Public Law 106-169, Section 101 (Improved Independent Living Program), the Iowa Finance Authority hereby gives Notice of Intended Action to adopt new Chapter 22, “Iowa Aftercare Services Rent Subsidy Program,” Iowa Administrative Code.

This amendment proposes a new chapter concerning the Iowa aftercare services rent subsidy program (program) to be operated by the Authority. Through the program, the Authority, working with the Department of Human Services, seeks to assist youth who are participating in the Department of Human Services' program of aftercare services for former foster care recipients. The program also includes a transitional apartment subsidy for agencies that provide housing and life skills training for these youth. The rules outline the purpose, application procedure, program guidelines, and other necessary requirements of the program.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed rules until 5 p.m. on January 11, 2005. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Donna Davis at (515)242-4957 or E-mailed to donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515) 242-4990.

The Authority will hold a public hearing from 10 to 11 a.m. on January 11, 2005, to receive public comments on these rules. The public hearing will be held in the Authority's main conference room at 100 E. Grand Ave., Suite 250, Des Moines, Iowa.

The Authority anticipates that it may make changes to these rules based on comments received from the public.

These rules are intended to implement Iowa Code sections 16.5(5), 16.5(10), 16.5(13), 16.5(17), and 16.15(7) and Public Law 106-169, Section 101 (Improved Independent Living Program).

IOWA FINANCE AUTHORITY[265](cont'd)

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt the following **new** chapter:

CHAPTER 22
IOWA AFTERCARE SERVICES
RENT SUBSIDY PROGRAM

265—22.1(16,PL106-169) Purpose. Through the Iowa aftercare services rent subsidy program (program), the authority, working with the department of human services, seeks to assist youth who are participating in the department of human services' program of aftercare services for former foster care recipients. The program also includes a transitional apartment subsidy for agencies that provide housing and life skills training for these youth.

265—22.2(16,PL106-169) Definitions.

"Aftercare services" means activities established in an individualized service plan developed with a self-sufficiency advocate which complement the youth's own efforts in achieving self-sufficiency, such as linking to appropriate community resources and having a safe and stable place to live.

"Authority" means the Iowa finance authority.

"Organization" means a contractor or subcontractor of the department of human services' program of aftercare services.

"Rental unit" means an apartment, mobile home, or private room for which a signed, written lease exists and which is governed by Iowa Code chapter 562A.

"Self-sufficiency advocate" means an employee of the organization, designated by the organization as a case manager to assist youth.

"Transitional apartment" means a rental unit, rented by the organization to the youth and used to provide housing and life skills training required to assist the youth to recognize and accept the personal responsibility related to being a renter.

"Youth" means a person at least 18 but not yet 21 years of age who has left foster care on or after the person's eighteenth birthday, and who is participating in the program of aftercare services.

265—22.3(16,PL106-169) Eligibility requirements for direct rent subsidy. All of the following criteria shall be met.

22.3(1) Aftercare services participant. The youth shall be an active participant in aftercare services, making progress toward an identified goal of obtaining or maintaining stable housing.

22.3(2) Demonstrated need. To demonstrate need, the youth must provide evidence that the youth is responsible for paying more than 30 percent of the youth's gross earned and unearned income for rent and that the youth cannot obtain other rental assistance because the youth has been determined ineligible or is on a waiting list for rent subsidy under the U.S. Department of Housing and Urban Development (HUD) or any other available rent subsidy program or because a waiting list for the HUD rent subsidy program or any other rent subsidy program is closed. This program may not be used to substitute for any other subsidy that the youth had been receiving at the time of or immediately prior to the time of application to this program. Youth receiving rental assis-

tance at the time of or immediately prior to the time of application to this program shall not be eligible.

22.3(3) Education on renter rights and responsibilities. To demonstrate that the youth understands the rights and responsibilities of being a renter, the youth must have either lived in a transitional apartment, completed a renter education and awareness program, be enrolled to participate or be currently participating in a renter education and awareness program.

22.3(4) Self-sufficiency plan. The youth must submit a budget that demonstrates that the subsidy, when combined with the youth's gross earned and unearned income, will enable the youth to cover all remaining living expenses (i.e., housing, utilities, clothing, and food).

265—22.4(16,PL106-169) Application for direct rent subsidy. Applications for the program may be obtained on the authority's Web site at www.ifahome.com or by contacting the authority at the address set forth in 265—Chapter 1.

22.4(1) Application process. The application for aftercare rent subsidy and a monthly budget form must be completed, verified by the self-sufficiency advocate and submitted to the authority by the youth's self-sufficiency advocate. The application and referenced forms will require the following information:

- a. The youth's estimated monthly gross earned and unearned income for the 12 months following application.
- b. Written evidence from sources of local rental assistance available in the youth's community that the youth has applied for that rental assistance and that the youth has been determined ineligible or placed on a waiting list for that rental assistance, or that the waiting list is closed.
- c. The amount of the total rent for the rental unit.
- d. Number of bedrooms in the rental unit.
- e. Names of the people that are on, or will be on, the lease.
- f. Number of the youth's minor dependents.
- g. Evidence that the youth has lived in a transitional apartment, completed a renter education and awareness program, or is enrolled to participate or is currently participating in a renter education and awareness program.
- h. Date of the youth's birth.

22.4(2) Date of application. The date of the application shall be the date the completed application is received by the authority. Any applications received after a monthly payment calculation will not receive a subsidy payment until the next succeeding payment cycle after approval of the application. No back payment for rent will be paid.

22.4(3) Payment determination. The self-sufficiency advocate shall be notified by the authority on or about the date that the authority calculates the payment for that month as to whether the youth's application has been approved.

22.4(4) Waiting list. After funds available for this program are committed, the authority shall deny pending applications.

a. Youth not awarded funding who meet the eligibility requirements shall be placed on a statewide waiting list according to the order in which the completed applications were received by the authority. In the event that more than one application is received at one time, the youth shall be entered on the waiting list on the basis of the day of the youth's birthday, lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, with January being month one.

b. The self-sufficiency advocate shall be notified of the waiting list decision on or about the date that the authority

IOWA FINANCE AUTHORITY[265](cont'd)

calculates the payment for that month. The notice shall state that the youth meets eligibility requirements but no funds are available and that the youth shall be placed on the waiting list.

c. When funding allows additional youth to be added to the program, they shall be taken from the statewide waiting list, and their eligibility shall be redetermined at that time. An application packet, which includes instructions and necessary forms for verification of continuing eligibility, shall be sent to the self-sufficiency advocate for completion, with such application to be returned to the authority within time lines specified by the authority. If the signed application and verification of continuing eligibility are not received by the time line specified by the authority, the youth's name shall be dropped from consideration for receipt of the rent subsidy payment.

265—22.5(16,PL106-169) Amount of rent subsidy.

22.5(1) Use of subsidy. Assistance shall be used for rental expense directly related to the youth's lease of a rental unit. The monthly payment shall be for a rental unit with one bedroom or a proportionate share of rental costs in units containing more than one bedroom. An exception for additional bedrooms will be made for minor dependents residing in the rental unit.

22.5(2) Subsidy amount. The subsidy amount is the difference, not to exceed \$350, between:

- a. The lesser of the actual rent or fair market rent under guidelines of the applicable HUD low-rent housing program in the county where the youth's residence is located, and
- b. Thirty percent of the youth's monthly gross earned and unearned income.

22.5(3) Monthly payment. So long as funds remain and eligibility requirements of this chapter continue to be met, the organization shall receive an ongoing monthly payment on behalf of the youth approved for rent subsidy. The monthly payment will equal the amount determined pursuant to subrule 22.5(2).

265—22.6(16,PL106-169) Redetermination of direct rent subsidy eligibility.

22.6(1) Time of completion. A redetermination of eligibility for direct rent subsidy payments shall be completed:

- a. At least once every 12 months.
- b. When a change in circumstances occurs that affects eligibility requirements of rule 265—22.3(16,PL106-169).
- c. If the youth moves from the rental unit stated on the application.
- d. When there is a change in income.
- e. When there is a change in the names of the people on the lease or number of minor dependents.
- f. When there is an unapproved person residing in the rental unit.
- g. If the youth fails to complete the renter education and awareness program within the time period stated in the application.

22.6(2) Review packet. The authority shall send a review packet, which shall include instructions and necessary forms for verification of continuing eligibility, to the youth's self-sufficiency advocate at least 60 calendar days before the deadline date for annual redetermination of eligibility.

- a. The self-sufficiency advocate shall submit the completed forms to the authority.
- b. If the authority does not receive the completed forms verifying continued eligibility by the stated deadline, the youth's subsidy shall be terminated.

265—22.7(16,PL106-169) Termination of rent subsidy payments.

22.7(1) Reasons for termination. The rent subsidy shall terminate at the end of the month in which any of the following occurs, and a notice shall be sent to the self-sufficiency advocate which states the reason for the termination:

- a. The youth does not meet one or more of the eligibility criteria listed in rule 265—22.3(16,PL106-169).
- b. The youth does not meet the youth's obligations and personal responsibility as a renter, as determined by the authority.
- c. No additional uncommitted funds are available for the rent subsidy program.

22.7(2) Reporting of changes. The youth is required to report to the youth's self-sufficiency advocate within ten calendar days any changes which may affect eligibility. Failure to do so may result in termination of the subsidy. The self-sufficiency advocate shall inform the authority of changes upon the advocate's discovery of such information.

22.7(3) Insufficient funding. If funds are not sufficient to cover payments for all youth on the subsidy, youth shall be terminated from the subsidy in the inverse order in which they began receiving payments, i.e., the last youth to be added to the subsidy being the first youth to be removed. The youth terminated shall move back to the waiting list with the original application date dictating the youth's position on the waiting list, as stated in subrule 22.4(4).

265—22.8(16,PL106-169) Eligibility requirements for transitional apartment subsidy. All of the following criteria shall be met:

22.8(1) The participating organization shall be a contractor or subcontractor of the department of human services' program of aftercare services.

22.8(2) The organization shall submit a plan to the authority on how the transitional apartment will be used to provide housing and life skills training to assist youth to recognize and accept their personal responsibility related to being a renter.

22.8(3) The organization will lease or sublease the apartment to qualified aftercare services participants who have left foster care on or after their eighteenth birthday.

265—22.9(16,PL106-169) Application for transitional apartment subsidy. Applications for the transitional apartment subsidy may be obtained on the authority's Web site or by contacting the authority at the address set forth in 265—Chapter 1. The organization shall submit the completed aftercare transitional apartment application, which must include a written narrative of the plan specified in subrule 22.8(2).

265—22.10(16,PL106-169) Amount of transitional apartment subsidy. The amount of transitional apartment subsidy is based on the lesser of the actual rent or 100 percent of the fair market rent under guidelines of the applicable HUD low-rent housing program in the county where the rental unit is located.

265—22.11(16,PL106-169) Redetermination of transitional apartment subsidy eligibility. A redetermination of eligibility for transitional apartment subsidy payments shall be completed:

1. At least once every 12 months.
2. When a change in circumstances occurs that affects eligibility requirements of rule 265—22.8(16,PL106-169).

IOWA FINANCE AUTHORITY[265](cont'd)

265—22.12(16,PL106-169) Termination of transitional apartment subsidy payments.

22.12(1) Reasons for termination. The rent subsidy shall terminate at the end of the month in which any of the following occurs, and a notice shall be sent to the participating organization which states the reason for the termination:

a. The organization no longer meets the eligibility criteria listed in rule 265—22.8(16,PL106-169).

b. No additional unobligated funds are available for the transitional apartment subsidy program.

22.12(2) Reporting of changes. The organization shall report to the authority any changes which may affect eligibility. Failure to do so may result in termination of the subsidy.

265—22.13(16,PL106-169) Fraudulent practices relating to the aftercare rent subsidy program. If a youth, self-sufficiency advocate, or organization knowingly makes or causes to be made a false statement or representation or knowingly fails to report to the authority any change in circumstances affecting the youth's or organization's eligibility for financial assistance under this chapter, the authority may require repayment of the amount that was paid to or on behalf of the youth or organization while the youth or organization was ineligible, as a condition of continued participation in the program.

265—22.14(16,PL106-169) Appeals.

22.14(1) An applicant whose application has been timely filed may appeal the authority's decision by filing a written notice of appeal within 14 days of the decision before the Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. The notice of appeal must actually be received at the above address within the time frame specified to be considered timely.

22.14(2) The notice of appeal shall state the grounds upon which the applicant challenges the decision.

22.14(3) An appeal shall be heard by the executive director of the Iowa finance authority. The executive director shall grant the appellant reasonable opportunity to gather information and inquire as to why the decision in question was made. The executive director shall allow the appellant to present all the relevant facts supporting the appellant's position. Such presentation shall be held not later than 30 days after the filing of an appeal, unless the parties agree to hold the presentation on a later date.

22.14(4) Within 7 days of the presentation, the executive director shall issue a written decision which clearly states whether or not the authority's decision was appropriate. Such decision shall be delivered to the appellant and the board of directors of the authority.

22.14(5) If the executive director determines that the authority's decision was not appropriate, the executive director shall recommend to the authority's board a proper remedy.

22.14(6) Final agency action. After receiving a written decision from the executive director, the board must either approve or decline to approve the executive director's recommendation no later than the next regularly scheduled board meeting. Such action by the board shall be the final decision of the agency.

22.14(7) Judicial review. Judicial review of the authority's final decisions may be sought in accordance with Iowa Code section 17A.19.

These rules are intended to implement Iowa Code sections 16.5(5), 16.5(10), 16.5(13), 16.5(17), and 16.15(7) and Public Law 106-169, Section 101 (Improved Independent Living Program).

ARC 3886B

**PUBLIC SAFETY
DEPARTMENT[661]**

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby gives Notice of Intended Action to amend Chapter 16, “State of Iowa Building Code,” Iowa Administrative Code.

While provisions of the State of Iowa Building Code generally apply to buildings owned by the State of Iowa and to buildings and facilities constructed in local jurisdictions which have adopted the State of Iowa Building Code, rules regarding the accessibility of buildings and facilities to persons with disabilities apply statewide. Included within the accessibility requirements are standards for accessibility of multiple-unit dwellings.

Effective January 1, 2004, previous standards for accessibility contained in the State of Iowa Building Code were replaced with new provisions generally based on the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG). Although renumbered at that time, rule 661—16.720(103A,104A), which establishes accessibility standards for multiple-unit dwellings (apartment buildings), was retained because accessibility requirements for apartment buildings generally stem from the federal Fair Housing Act and are not covered by ADAAG.

In the rule making which became effective at the beginning of 2004, one provision regarding accessibility of apartment buildings was inadvertently rescinded because it was located in a rule other than the rule which specifies most of the accessibility requirements for these buildings. The rescinded provision required elevators in three-story buildings, but included an exception that required elevators in apartment buildings only if the apartment buildings were four or more stories. The amendment proposed herein would restore the provision by adding to rule 661—16.720(103A,104A) a new subrule 16.720(2), which provides that elevators are required in apartment buildings of four or more stories, but not in apartment buildings of three or fewer stories.

The amendment further provides that elevators which are required by the new subrule must meet ADAAG specifications for accessible elevators but that elevators installed in apartment buildings of three or fewer stories are not subject to ADAAG accessibility requirements.

A public hearing regarding this amendment will be held on January 18, 2005, at 11 a.m. in the Fire Marshal Division Conference Room, 401 SW 7th Street, Des Moines, Iowa. Persons may present their views concerning this amendment at the public hearing orally or in writing. Persons who wish to make oral presentations at the hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, 502 East 9th Street, Des Moines, Iowa 50319, or by telephone at (515)281-5524 at least one day prior to the hearing.

Any interested persons may make oral or written comments concerning this proposed amendment to the Agency

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Rules Administrator by mail, telephone, or in person at the above address at least one day prior to the public hearing. Comments may also be submitted by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 3885B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code sections 103A.7 and 104A.2.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 3895B

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 17A and section 421.17, the Department of Revenue hereby gives Notice of Intended Action to rescind Chapter 1, "State Board of Tax Review—Administration," and adopt new Chapter 1 with the same title, and to rescind Chapter 2, "Conduct of Appeals, Rules of Practice and Procedure," and adopt new Chapter 2, "State Board of Tax Review—Conduct of Appeals and Rules of Practice and Procedure," Iowa Administrative Code.

Item 1 rescinds Chapter 1 and adopts new Chapter 1, which governs the administrative aspect of the State Board of Tax Review. The new chapter is proposed in order to update current administrative procedures and to delete obsolete rules and language. Item 2 rescinds Chapter 2 and adopts new Chapter 2, which governs the practice and procedures regarding appeals to the State Board of Tax Review. The new chapter is proposed in order to update the language to conform to current practice before the State Board of Tax Review, to provide a clearer understanding of the requirements for appeal to the State Board from a decision by the Director of the Department, and to allow the Department and the taxpayer to seek judicial review of a decision or order of the State Board of Tax Review pursuant to 2004 Iowa Acts, chapter 1073, section 3.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later

than January 24, 2005, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before January 11, 2005. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the Fourth Floor of the Hoover State Office Building, 1305 E. Walnut, Des Moines, Iowa 50319.

Requests for a public hearing must be received by January 14, 2005.

These amendments are intended to implement 2004 Iowa Acts, chapter 1073, section 3.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind 701—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1

STATE BOARD OF TAX REVIEW—ADMINISTRATION

701—1.1(17A,421) Establishment, membership and location of the state board of tax review. By an Act of the Sixty-second General Assembly (1967 Iowa Acts, chapter 342), the state board of tax review (state board) was established within the department of revenue. The state board consists of three members that are appointed by the governor and subject to confirmation by the senate. The board also has a secretary who assists in administrative tasks and serves the board. One of the three members is selected as the chairperson of the state board, and it is the chairperson's duty to call and chair meetings. The members shall serve staggered terms, and each member shall serve a six-year term. A member shall not be permitted a successive term.

The state board determines when it should convene to discuss or conduct hearings regarding matters that are appealed to the board. The office of the state board is maintained in the department of revenue, and its mailing address is State Board of Tax Review, Department of Revenue, Hoover State Office Building, Fourth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319.

701—1.2(421,17A) Powers and duties of the state board. The state board's powers and duties include, but may not be limited to, the following:

1. Reviewing matters appealed to the state board from the department of revenue or by an affected taxpayer;

2. Reviewing matters of original jurisdiction and matters on the board's own motion as set out in Iowa Code section 421.1(4);

REVENUE DEPARTMENT[701](cont'd)

3. Determining and adopting policies that are authorized by law and that are necessary for the more efficient operation of any phases of tax review;

4. Advising and counseling the director of revenue concerning tax laws and regulations;

5. Preparing and submitting to each regular session of the general assembly a report containing recommendations regarding new laws, the amendment of current law, or review for repeal of laws;

6. Reviewing and recommending appropriate action regarding petitions of interested persons to amend or rescind the procedural or administrative rules that govern the state board which are limited to 701—Chapters 1 and 2.

701—1.3(421,17A) Powers and duties not subject to the jurisdiction of the state board. The state board shall not consider or review either of the following items:

1.3(1) Declaratory orders. The state board shall not consider or rule on petitions for declaratory orders as to the applicability of any statutory provision, rule or other written statement of law or policy, decision, or order. Upon request, the state board may review a ruling of the department of revenue concerning the appropriate action regarding the petition;

1.3(2) Petitions for rule making. The state board will not consider any petitions of interested persons requesting the promulgation, amendment or rescission of any substantive tax rule. Petitions regarding these topics should be submitted to the department of revenue. The board shall review and recommend appropriate action regarding petitions of interested persons to amend or rescind the procedural or administrative rules that govern the state board which are limited to 701—Chapters 1 and 2.

These rules are intended to implement Iowa Code chapter 17A.

ITEM 2. Rescind 701—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
STATE BOARD OF TAX REVIEW—
CONDUCT OF APPEALS AND
RULES OF PRACTICE AND PROCEDURE

DIVISION I
APPELLATE CASES

GENERAL RULES OF PRACTICE
AND PROCEDURE FOR FINAL CONTESTED CASE DECISIONS
OF OR ATTRIBUTABLE TO THE DIRECTOR OF REVENUE

701—2.1(421,17A) Definitions. For the purposes of these rules, the following definitions shall apply:

“Board” or “state board” means the state board of tax review as created by chapter 342 of the Acts of the Sixty-second General Assembly and governed by Iowa Code chapter 17A and section 421.1.

“Department” means the Iowa department of revenue.

“Director” means the director of the Iowa department of revenue.

“Secretary” means the secretary for the state board of tax review.

701—2.2(421,17A) Appeal and jurisdiction.

2.2(1) Jurisdiction. Jurisdiction is conferred upon the state board by the giving of written notice to the department within 30 days of the rendering of the decision, order, or directive, which is a final agency action from which such appeal is taken. The appellant may appeal the entire decision or order issued by the director or the appellant may appeal only

certain issues set forth in the review by the director. In cases in which the state board does not have original jurisdiction, the state board has the power to review all of the original issues raised by the parties in the contested case, even if the issues were not appealed or subject to cross-appeal by the parties.

2.2(2) Notice of appeal. The notice of appeal must be proper in format and content as set forth in 701—2.3(421,17A), which governs the notice of appeal.

Notice of appeal may be given by certified mail, return receipt requested, addressed to the department of revenue to the attention of the director, or by service on the director as provided by the Iowa Rules of Civil Procedure. The mailing address for the notice of appeal is Secretary for the State Board, Director’s Office, State Board of Tax Review, Hoover State Office Building, 1305 East Walnut Street, Fourth Floor, Des Moines, Iowa 50319.

Proof that the notice of appeal was filed with the state board shall be made by executing an affidavit of mailing signed by the appellant or the appellant’s duly authorized representative, with return receipt and a copy of the notice attached. The affidavit shall state that the notice of appeal was mailed to the secretary for the state board indicating the mailing address that was used, or the affidavit shall state that the filing of the notice of appeal was conducted by in-person delivery to the secretary for the state board with a file-stamped copy of the notice having been received and attached to the affidavit.

2.2(3) Scheduling of case briefs and arguments. The state board will determine the briefing and argument schedule for the matter on appeal. The state board may resolve the appeal based on the briefs or provide an opportunity for oral argument. The state board may amend a scheduling notice that was issued by the state board. The state board may amend the notice on the board’s own motion or after consideration of a petition requesting such a modification from any of the parties involved in the appeal.

701—2.3(421,17A) Form of appeal. The written notice of appeal shall contain a caption in the following form:

BEFORE THE STATE BOARD OF TAX REVIEW
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF _____ (state taxpayer’s name, address and designate type of proceeding, e.g., income tax refund claim)	}	NOTICE OF APPEAL DOCKET NO. (Docket No. is assigned by Board)
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The notice of appeal shall substantially state in separate numbered paragraphs the following:

1. The appellant’s name and legal residence;
2. The date on which the director’s decision, order or directive was issued;
3. The amount of assessment or refund denial, nature of tax, year or other period, date of assessment or refund denial, and approximate amount of total tax liability in controversy;
4. A clear and concise assignment of each and every error;
5. A clear and concise statement of the facts upon which the affected taxpayer relies as sustaining the assignment of error;
6. The relief requested;
7. The signature of affected taxpayer or counsel, together with address to which all subsequent correspondence, notice or papers shall be served or mailed.

REVENUE DEPARTMENT[701](cont'd)

The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service.

701—2.4(421,17A) Certification by director. Within 30 days after notice of appeal is given, the director shall certify to the board all records, documents, reports, audits, a copy of the decision, order or directive from which appeal is taken, and all other pertinent information.

701—2.5(421,17A) Motions. All motions shall be in writing and shall be filed with the secretary for the state board within 30 days after the filing of the attached pleading and shall contain the reasons and grounds supporting the motion. The state board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit.

701—2.6(421,17A) Answer. An answer shall be filed with the secretary for the state board within 30 days after the filing of pleading responded to, unless attacked by motion as provided in rule 701—2.5(421,17A), and then the answer shall be filed within 30 days after the date on which the state board issues a ruling on the motion.

701—2.7(421,17A) Docketing. Appeals shall be assigned consecutive docket numbers. Records must be maintained by the secretary for the state board consisting of the case name and the corresponding docket number assigned to the case. The records of each case shall also include each action and each act done, with the proper dates as follows:

1. The title of the appeal;
2. Brief statement of the type of tax, year or other period, date of assessment, refund denial, and the amount involved including tax, penalty, interest and costs;
3. The manner and time of service of notice of appeal;
4. The appearance of all parties;
5. Notice of hearing, together with manner and time of service; and
6. The decision of the state board or other disposition of the case and the date.

701—2.8(421,17A) Filing of papers. After proof of notice has been filed, all motions, pleadings, briefs, and other papers to be filed shall be filed in quadruplicate with the secretary for the state board who shall send copies to members of the state board and to all other parties of record, unless represented by counsel of record, then to such counsel.

701—2.9(421,17A) Hearing an appeal. In the event that the case consists of a review by the state board of a decision of or attributable to the director in a contested case proceeding, the state board will consider only those issues or selected issues actually presented at the contested case proceeding where such issues were of the type which by statute were entrusted to the director for determination. Further, when reviewing the decision of or attributable to the director on these issues presented at the contested case proceeding, the board shall not hear any further evidence with respect to those issues, but the board shall afford each party an opportunity to present briefs and oral arguments.

701—2.10(17A,421) Appearances by appellant. Any appellant may appear in person or, in the case of corporations, partnerships or other associations, by their duly authorized representative, or by an attorney-at-law or a certified public accountant authorized to practice in the state of Iowa.

701—2.11(421,17A) Authority of state board to issue procedural orders. The state board or a member of the state

board may issue preliminary orders regarding procedural matters. The secretary for the state board shall immediately mail a copy of any such preliminary order entered under this rule to the two members of the board who did not participate in the order. All orders entered under this rule shall become the action of the board unless the members of the board who did not participate in the order notify the secretary of their objection within five days of their receipt of the order. If the members of the board who did not participate in the order timely object, then the order shall be null and void. The secretary shall notify the parties of the order entered under this rule, when it becomes the order of the board. The chairperson, or other member designated by the chairperson, may grant a continuance of the hearing on appeal for "good cause" even though there is insufficient time before the scheduled hearing for other members of the board to object to the continuance.

701—2.12(421,17A) Continuances. Any hearing may be continued for "good cause." Requests for continuance prior to the hearing shall be in writing and promptly filed with the state board immediately upon "the cause" becoming known.

701—2.13(17A,421) Place of hearing. Unless otherwise designated by the state board, the hearing shall be held in the office of the State Board of Tax Review, Hoover State Office Building, Fourth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319.

701—2.14(17A,421) Members participating. All appeals shall be heard by a minimum of two members of the state board. Orders and decisions shall be signed by one member of the board and shall name participating members. Decisions shall affirm, modify, remand, or reverse the decision, order, or directive from which an appeal was made. A majority decision by the state board shall govern and control. Written dissenting decisions may be filed.

701—2.15(17A,421) Presiding officer. The chairperson of the state board or a designated member shall preside at the hearing.

701—2.16(17A,421) Appeals of state board decisions. Prior to July 1, 2004, only a taxpayer could seek judicial review by the state board of a decision or order previously issued by the director. However, effective for state board decisions issued on or after July 1, 2004, either the department or the taxpayer may seek judicial review of a decision or order rendered by the state board. The department or taxpayer may seek judicial review of the entire decision or order of the state board or may seek judicial review of only certain issues contained in the decision or order of the state board.

DIVISION II

ORIGINAL JURISDICTION

RULES GOVERNING CONTESTED CASE PROCEEDINGS
IN WHICH THE STATE BOARD HAS ORIGINAL JURISDICTION
TO COMMENCE A CONTESTED CASE PROCEEDING

701—2.17(421,17A) Applicability and scope. The rules set forth under division II govern the proceedings for all cases in which the state board has original jurisdiction to commence a contested case proceeding.

701—2.18(17A) Definitions. For the purposes of division II, the following definitions shall apply:

"Board" or "state board" means the state board of tax review created by Iowa Code section 421.1.

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5), over which the state board of tax review has original jurisdiction to commence a contested case

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proceeding, and includes any matter defined as a no factual dispute contested case pursuant to Iowa Code section 17A.10A.

"Department" means the department of revenue.

"Department of inspections and appeals" means the Iowa department of inspections and appeals which was created and is governed by Iowa Code chapter 10A.

"Director" means the director of the department of revenue or the director's authorized representative.

"Division of administrative hearings" means the division of the department of inspections and appeals responsible for holding contested case proceedings pursuant to Iowa Code chapter 10A.

"Issuance" means the date of mailing of a decision or order or date of delivery if service is by other means, unless another date is specified in the order.

"Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

"Person" means any individual; estate; trust; fiduciary; partnership including limited liability partnership; corporation including limited liability corporation; association; governmental subdivision; public or private organization of any character; or any other individual or entity allowed by definition under the law of another agency involved in the proceedings under this division.

"Presiding officer" means the members of the state board officiating over the contested case proceedings or, if the state board exercises its discretion and the notice of appeal is transferred from the state board to the department of inspections and appeals, then "presiding officer" means an administrative law judge employed by the division of administrative hearings of the department of inspections and appeals.

"Proposed decision" means the presiding officer's recommended findings of fact, conclusions of law, decision, and order in a contested case.

701—2.19(421,17A) Time requirements. Time shall be computed as provided in Iowa Code section 4.1(34), "Time—legal holidays."

701—2.20(421,17A) Notice of appeal. Jurisdiction is conferred upon the state board by the giving of written notice to the department within 30 days of the rendering of the decision, order, or directive from which such appeal is taken. However, the state board does not have jurisdiction with regard to a final equalization notice issued pursuant to Iowa Code section 441.49, unless written notice is given within 10 days of the date of the order in accordance with rule 701—71.15(441).

Notice of appeal to the state board may be given by certified mail, return receipt requested, and addressed to the department of revenue to the attention of the director at Iowa Department of Revenue, Hoover State Office Building, Fourth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319, or by service on the director as provided by the Iowa Rules of Civil Procedure.

Notice shall be proved by affidavit of mailing signed by the appellant or the appellant's duly authorized representative, with return receipt and a copy of the notice attached, filed with the secretary, or by filing with the secretary a copy of the notice of appeal with return of service attached.

701—2.21(421,17A) Form of appeal. The written notice of appeal shall contain a caption in the following form:

BEFORE THE STATE BOARD OF TAX REVIEW
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF _____ (state taxpayer's name, address and designate type of proceeding, e.g., income tax refund claim)	}	NOTICE OF APPEAL DOCKET NO. (Docket No. is assigned by Board)
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The notice of appeal shall substantially state in separate numbered paragraphs the following:

1. The appellant's name and legal residence;
2. The date appellant received the director's decision, order, or directive;
3. The amount of assessment or refund at issue, nature of tax, year or other period, date of assessment or refund denial, and approximate amount of total tax liability in controversy;
4. A clear and concise assignment of each and every error;
5. A clear and concise statement of the facts upon which the affected taxpayer relies as sustaining the assignment of error;
6. The relief requested; and
7. The signature of affected taxpayer or counsel, together with address to which all subsequent correspondence, notice or papers shall be served or mailed.

701—2.22(421,17A) Certification by director. Within 30 days after notice of appeal is given, the director shall certify to the board all records; documents; reports; audits; a copy of the decision, order, or directive from which appeal is taken; and all other pertinent information.

701—2.23(421,17A) Answer. An answer shall be filed with the secretary for the state board within 30 days after the filing of pleading responded to, unless attacked by motion as provided in rule 701—2.5(421,17A). If a motion is filed attacking the pleadings as provided in 701—2.5(421,17A), then the answer shall be filed within 30 days after the date on which the board issues a ruling on the motion.

701—2.24(421,17A) Docketing. Appeals shall be assigned consecutive docket numbers. Records must be maintained by the secretary for the state board consisting of the case name and the corresponding docket number assigned to the case. The records of each case shall also include each action and each act done, with the proper dates as follows:

1. The title of the appeal;
2. Brief statement of the type of tax, year or other period, date of assessment, and the amount involved including tax, penalty, interest and costs;
3. The manner and time of service of notice of appeal;
4. The appearance of all parties;
5. Notice of hearing, together with manner and time of service; and
6. The decision of the state board or other disposition of the case and the date.

701—2.25(421,17A) Appearances by appellant. Any appellant may appear in person or, in the case of corporations, partnerships or other associations, by their duly authorized representative, or by an attorney-at-law or a certified public accountant authorized to practice in the state of Iowa.

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701—2.26(421,17A) Place of hearing. Unless otherwise designated by the state board, the hearing shall be held in the office of the State Board of Tax Review, Hoover State Office Building, Fourth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319.

701—2.27(421,17A) Transcript of hearing. Hearings shall be tape-recorded. Any party may provide a certified court reporter at the party's own expense. Any party may request that a transcription of the tape-recorded hearing be composed. The department reserves the right to impose a charge for transcription services.

701—2.28(421,17A) Requests for contested case proceeding. Any party may request commencement of a contested case proceeding by filing a written request for such a proceeding after the notice of appeal and an answer have been filed.

701—2.29(421,17A) Notice of hearing.

2.29(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure;
- b. Certified mail, return receipt requested;
- c. First-class mail; or
- d. Publication, as provided in the Iowa Rules of Civil Procedure.

2.29(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted. If the state board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
- e. Identification of all parties including the name, address and telephone number of the parties' representatives where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Identification of the presiding officer, if known. If the identity of the presiding officer is not known, a description of who will serve as presiding officer;
- h. Notification of the time period in which a party may request that the presiding officer be an administrative law judge; and
- i. Whether the state board on its own motion has decided to transfer the case to the division of administrative hearings.

701—2.30(17A) Presiding officer.

2.30(1) Request. Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 30 days after service of a request for commencement of a contested case proceeding as provided in 701—2.28(421,17A).

2.30(2) Denial of request. The state board may deny the request only upon a finding that one or more of the following apply:

- a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare;
- b. An administrative law judge with the qualifications identified in subrule 2.30(4) is unavailable to hear the case within a reasonable time;
- c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented;
- d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues;
- e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal;
- f. The request was not timely filed;
- g. The request is not consistent with a specified statute; or
- h. The state board based on its discretion may wish to retain the case due to the subject matter of the case or issues involved in the case.

2.30(3) Ruling on request. The state board shall issue a written ruling specifying the grounds for its decision within 30 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 2.30(4), the parties shall be notified at least 10 days prior to the hearing if a qualified administrative law judge will not be available.

2.30(4) Qualifications of the administrative law judge. An administrative law judge assigned to act as a presiding officer in a case in which the state board has original jurisdiction shall have the following technical expertise unless waived by the state board: The administrative law judge must be an attorney licensed to practice law in the state of Iowa and, based on the discretion of the state board, possess sufficient technical expertise in the area of taxation and related matters to be capable of rendering a fair and competent decision in such cases.

2.30(5) Appeal of proposed decision by the administrative law judge. Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the state board. A party must seek any available appeal in order to exhaust adequate administrative remedies.

2.30(6) Review of interagency appeals. Unless otherwise provided by law, members of the state board, when reviewing a proposed decision upon interagency appeal, shall have the powers which apply to presiding officers.

701—2.31(421,17A) Transfer of case for hearing or appeal. The secretary for the state board shall transfer the case file to the division of administrative hearings within 30 days of the date of a determination by the state board that the case should be transferred. The parties to the case shall be notified at least 10 days prior to the hearing if a qualified administrative law judge will be available.

The administrative hearings division shall, upon issuance of a proposed decision, promptly forward the record of the contested case proceeding and all other papers associated with the case to the state board, if no timely motion to vacate under rule 701—2.46(421,17A) is filed. If such a motion is filed, the record shall be promptly forwarded after the motion to vacate is denied or a proposed decision is rendered on the merits.

701—2.32(421,17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of division II. However, the

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state board in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

701—2.33(421,17A) Telephone proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

701—2.34(17A,421) Disqualifications of a presiding officer.

2.34(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted, or advocated in connection with that case, the specific controversy underlying that case, or another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction, or discretion of any person who has personally investigated, prosecuted, or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f. Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

2.34(2) Personally investigated. The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other functions of the state board, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer or a member of the state board shall be disclosed if required by Iowa Code section 17A.11 and the rules set forth in this division.

2.34(3) Withdrawal. In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit

and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

2.34(4) Motion for disqualification. If a party asserts disqualification on any appropriate ground, including those listed in subrule 2.34(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification, but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal and a stay as provided under the rules of this division.

701—2.35(421,17A) Consolidation and severance.

2.35(1) Consolidation. The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where: (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

2.35(2) Severance. The presiding officer may, for good cause shown, order any contested case proceedings or portions of the proceedings severed.

701—2.36(17A) Service and filing of pleadings and other papers.

2.36(1) When service is required. Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

2.36(2) Service—how made. Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by in-person delivery or by mailing a copy to the person’s last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

2.36(3) Filing—when required. All pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the Secretary for the State Board of Tax Review, Hoover State Office Building, Fourth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the state board at the address for the secretary for the state board as previously stated. Thereafter, once an administrative law judge becomes a presiding officer, such papers will be filed with that administrative law judge.

2.36(4) Filing—when made. Except where otherwise provided by law, a document is deemed filed with the state board or an administrative law judge if one of the following has occurred:

- a. At the time it is delivered to the secretary for the state board at the Hoover State Office Building, Fourth Floor,

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1305 E. Walnut Street, Des Moines, Iowa 50319, or to the address for the administrative law judge;

b. When delivered to an established courier service for immediate delivery to the Secretary for the State Board, Hoover State Office Building, Fourth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319, or to the address of the administrative law judge; or

c. When mailed by first-class mail or state interoffice mail to the secretary for the state board at the address indicated above or to the address of the administrative law judge, so long as there is proof of mailing.

2.36(5) Proof of mailing. Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date) (Signature)

701—2.37(421,17A) Discovery.

2.37(1) Discovery procedure. Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

2.37(2) Discovery motions. Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 2.37(1). The presiding officer may rule on the basis of the written motion and any response, or may order written or oral arguments on the motion.

2.37(3) Admissibility of evidence. Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

701—2.38(421,17A) Subpoenas.

2.38(1) Issuance.

a. A subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

2.38(2) Motion to quash or modify. The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

701—2.39(421,17A) Motions.

2.39(1) Form. No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

2.39(2) Response. Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

2.39(3) Oral argument. The presiding officer may schedule oral argument on any motion.

2.39(4) Deadline. Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the state board or an order of the presiding officer.

2.39(5) Motions for summary judgment. Motions for summary judgment shall comply with requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served at least 45 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or written submission shall be not less than 30 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to appeal or rehearing pursuant to these rules.

701—2.40(421,17A) Prehearing conference.

2.40(1) Request. Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall not be scheduled less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the state board to all parties. For good cause, the presiding officer may permit variances from this rule.

2.40(2) Prehearing information. Each party shall bring to the prehearing conference the following:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names;

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them; and

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

2.40(3) Permissible prehearing conference actions. In addition to the requirements of subrule 2.40(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters which the parties intend to request be officially noticed;

d. Enter into stipulations for waiver of any provision of law; and

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e. Consider any additional matters which will expedite the hearing.

2.40(4) Telephone. Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

701—2.41(421,17A) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

2.41(1) Application. A written application for a continuance shall:

a. Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible.

2.41(2) Factors in determining a continuance. In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The likelihood of informal settlement;

d. The existence of an emergency;

e. Any objection;

f. Any applicable time requirements;

g. The existence of a conflict in the schedules of counsel, parties, or witnesses;

h. The timeliness of the request; and

i. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

701—2.42(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing. Unless otherwise provided, a withdrawal shall be with prejudice.

701—2.43(421,17A) Intervention.

2.43(1) Motion. A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

2.43(2) When filed. Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 30 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by un-

timely intervenors for continuances which would delay the proceeding will ordinarily be denied.

2.43(3) Grounds for intervention. The movant shall demonstrate that: (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

2.43(4) Effect of intervention. If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

701—2.44(421,17A) Hearing procedures.

2.44(1) Authority of presiding officer. The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

2.44(2) Objections. All objections shall be timely made and stated on the record.

2.44(3) Representation. Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

2.44(4) Participation in hearing. Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

2.44(5) Decorum. The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

2.44(6) Sequestration. Witnesses may be sequestered during the hearing.

2.44(7) Conduct of the hearing. The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter and shall be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

701—2.45(421,17A) Evidence.

2.45(1) Admissibility. The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

2.45(2) Stipulations. Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

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2.45(3) Scope of admissible evidence. Evidence in the proceeding shall be confined to the issues about which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

2.45(4) Exhibits. The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

2.45(5) Objection. Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

2.45(6) Offer of proof. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

701—2.46(421,17A) Default or dismissal.

2.46(1) Grounds. If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

2.46(2) Moving for default. Where appropriate and not contrary to law, any party may move for default against a party who has failed to file a required pleading, has failed to pursue, or has failed to appear after proper service.

2.46(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

2.46(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision of the motion to vacate.

2.46(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the

issue prior to a decision on the motion if a request to do so is included in that party's response.

2.46(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" as interpreted in the case of *Purethane, Inc. v. Iowa State Board of Tax Review*, 498 N.W.2d 706 (Iowa 1993).

2.46(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party.

2.46(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

2.46(9) A default decision may award any relief consistent with the request for relief made in the pleadings and embraced in the issues.

2.46(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay.

701—2.47(421,17A) Ex parte communication.

2.47(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following the issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such a case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the state board. Nothing in this provision is intended to preclude the presiding officer from seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties. Any communication received by the presiding officer from those persons cannot directly or indirectly communicate any ex parte communications the receipt of which is prohibited under the Iowa Rules of Civil Procedure and the Code of Ethics. In addition, any communication received by the presiding officer cannot furnish, augment, diminish, or modify the evidence in the record.

2.47(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

2.47(3) Written, oral, or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

2.47(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided to all parties or their representatives and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through a telephone conference call including all parties or their representatives.

2.47(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

REVENUE DEPARTMENT[701](cont'd)

2.47(6) Other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 2.47(2).

2.47(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines.

2.47(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the period in which a contested case is pending must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order, or disclosed if an appropriate order is made. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

2.47(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13 or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

2.47(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the state board. Violation of ex parte communication prohibitions by state board personnel shall be reported to the secretary for the State Board of Tax Review, Hoover State Office Building, Fourth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319, for possible sanctions, including censure, suspension, dismissal, or other disciplinary action.

701—2.48(421,17A) Recording costs. Upon request, the state board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

701—2.49(421,17A) Interlocutory appeals. Upon written request of a party or on its own motion, the state board may

review an interlocutory order of a presiding officer. In determining whether to do so, the state board shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the state board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

701—2.50(421,17A) Final decision.

2.50(1) When the state board presides over the reception of evidence at the hearing, its decision is a final decision.

2.50(2) When the state board does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the state board without further proceedings unless there is a timely motion to vacate under rule 701—2.46(421,17A), or an appeal to, or review on motion of, the state board within the time provided in rule 701—2.51(421,17A).

701—2.51(421,17A) Applications for rehearing.

2.51(1) Who may file. Any party to a contested case proceeding may file an application for rehearing from a final order.

2.51(2) Content of application. The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the decision on the existing record and whether, on the basis of the grounds enumerated in subrule 2.51(3), the applicant requests an opportunity to submit additional evidence.

2.51(3) Time of filing. The application for rehearing shall be filed with the state board within 30 days after issuance of the final decision.

2.51(4) Notice to other parties. A copy of the application shall be timely mailed by the applicant to all parties of record that are joining in the application for rehearing. If the application does not contain a certificate of service, the state board shall serve copies on all parties.

2.51(5) Disposition. Any application for a rehearing shall be deemed denied unless the agency grants the application within 30 days after its filing.

701—2.52(421,17A) Stays of agency and board actions.

2.52(1) When available. Any party to a contested case proceeding may petition the state board for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition for a stay shall state the reasons justifying a stay or other temporary remedy.

2.52(2) When granted. In determining whether to grant a stay, the state board shall consider the factors listed in Iowa Code section 17A.19(5).

2.52(3) Vacation. A stay may be vacated by the state board upon application of the department or any other party.

701—2.53(421,17A) No factual dispute contested case. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs, and oral argument should be

REVENUE DEPARTMENT[701](cont'd)

submitted to the state board for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

701—2.54(421,17A) Appeal and review of a state board decision. Either party may appeal a final decision issued by the state board. An appeal from a final state board decision is termed “judicial review of an agency decision,” which is governed by Iowa Code section 17A.19.

These rules are intended to implement Iowa Code chapter 17A and Iowa Code section 421.1 as amended by 2004 Iowa Acts, chapter 1073, and sections 421.2 and 441.49.

ARC 3888B**TRANSPORTATION
DEPARTMENT[761]****Notice of Intended Action**

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 810, “Railroad Safety Standards,” Iowa Administrative Code.

2004 Iowa Acts, chapter 1175, section 334, requires the Department to adopt rules requiring railroads in the state to provide reasonable and adequate access to first aid or medical treatment for employees injured in the course of employment. New rule 761—810.4(327F) implements this rule-making requirement.

This rule does not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning the proposed rule or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director’s Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.
5. Be received by the Director’s Staff Division no later than January 11, 2005.

A meeting to hear requested oral presentations is scheduled for Thursday, January 13, 2005, at 10 a.m. in the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed rule may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Director’s Staff Division at the address listed in this Notice by January 24, 2005.

This rule is intended to implement 2004 Iowa Acts, chapter 1175, section 334.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

Proposed rule-making action:

Adopt **new** rule 761—810.4(327F) as follows:

761—810.4(327F) First aid and medical treatment for railroad employees.

810.4(1) Railroad employees who are injured in the course of employment shall have reasonable and adequate access to first aid or medical treatment. A railroad or railroad employee shall not:

a. Deny, delay or interfere with first aid or medical treatment for any railroad employee who is injured in the course of employment.

b. Discipline or threaten to discipline any railroad employee for requesting first aid or medical treatment when the employee is injured in the course of employment.

810.4(2) Nothing in this rule shall be construed to require a railroad or railroad employee to perform first aid or medical care.

This rule is intended to implement 2004 Iowa Acts, chapter 1175, section 334.

**NOTICE—PUBLIC FUNDS
INTEREST RATES**

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for December is 6.00%.

**INTEREST RATES FOR PUBLIC
OBLIGATIONS AND ASSESSMENTS**

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

the community. This statement is available for examination by citizens.

New official state interest rates, effective December 9, 2004, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 0.70%
32-89 days	Minimum 1.10%
90-179 days	Minimum 1.20%
180-364 days	Minimum 1.45%
One year to 397 days	Minimum 1.75%
More than 397 days	Minimum 2.95%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 3900B

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.4, 476.1, 476.2, and 476.103, the Utilities Board (Board) gives notice that on December 1, 2004, the Board issued an order in Docket No. RMU-04-9, In re: Revisions to Rules Prohibiting Unauthorized Changes in Telecommunications Service [199 IAC 22], “Order Commencing Rule Making.”

Current subrule 199 IAC 22.23(2) prohibits a telecommunications service provider from submitting a carrier change order to another service provider without customer authorization of the change. The purpose of the rule is to prevent “slamming,” which is an unauthorized change in a customer’s telecommunications service. The classic example is when a long distance carrier submits an order to a local exchange carrier to change a customer’s presubscribed long distance carrier without first obtaining authorization from the customer.

The rule appears to be effective in preventing slamming, but it can cause unnecessary delays of other, legitimate transactions. For example, a provider currently must file a request for a waiver of subrule 22.23(2) in order to acquire part or all of a customer base from another carrier without obtaining individual customer consent from each and every customer. This happens, for instance, when one carrier is going out of business or is being acquired by another carrier.

In cases where a service provider is acquiring the customer base of another service provider by means of a sale or asset transfer, obtaining the authorization of each affected customer could be a burdensome process. The Board has consistently waived the authorization requirement in these kinds of cases.

The proposed amendments to subrule 22.23(2) address situations involving the carrier-to-carrier sale or transfer of customer bases and create new procedures that will allow the

change of telecommunications service providers without customer authorization or waiver. The proposed amendments will require an acquiring carrier to self-certify to the Board, in advance of the transfer, that the carrier will follow the required procedures, which include advance notice to the Board and affected customers. This will protect the interests of the affected customers by giving them sufficient time to select a preferred carrier other than the acquiring carrier, if they wish. The proposed amendments also modify the definition of “slamming” to explain that slamming does not include a change in provider made pursuant to a sale or transfer of assets, and remove the phrase “social security number” from the list of examples of appropriate verification data in subparagraphs 22.23(2)“a”(3) to (5). The order commencing rule making contains a more thorough discussion of the reasons for the proposed rule making. The order is available on the Board’s Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before January 11, 2005, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author’s name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)“b,” an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.103.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **22.23(1)**, definition of “slamming,” as follows:

“Slamming” means the designation of a new provider of a telecommunications service to a customer, including the initial selection of a service provider, without the verified consent of the customer. *“Slamming” does not include the designation of a new provider of a telecommunications service to a customer made pursuant to the sale or transfer of another carrier’s customer base, provided that the designation meets the requirements of 199 IAC 22.23(2)“e.”*

ITEM 2. Amend subparagraph **22.23(2)“a”(3)** as follows:

(3) An appropriately qualified independent third party has obtained the customer’s oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data (e.g., the customer’s date of birth ~~or social security number~~). The independent third party must not be owned, managed, controlled, or directed by the service provider or the service provider’s marketing agent; must not have any financial incentive to confirm preferred carrier change orders for the service provider or the service provider’s marketing agent; and must operate in a location physically separate from the service provider or the service provider’s marketing agent. The content of the verification must in-

UTILITIES DIVISION[199](cont'd)

clude clear and conspicuous confirmation that the customer has authorized a preferred carrier change; or

ITEM 3. Amend numbered paragraph **22.23(2)“d”(4)“2,”** second and third bulleted paragraphs, as follows:

- The local exchange carrier has obtained the customer's electronic authorization, placed from the telephone number(s) on which the preferred service provider freeze is to be imposed, to impose a preferred service provider freeze. The electronic authorization shall confirm appropriate verification data (e.g., the customer's date of birth ~~or social security number~~) and the information required in 22.23(2)“d”(4)“3.” Service providers electing to confirm preferred service provider freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism that records the required information regarding the preferred service provider freeze request, including automatically recording the originating automatic numbering identification; or

- An appropriately qualified independent third party has obtained the customer's oral authorization to submit the preferred service provider freeze and confirmed the appropriate verification data (e.g., the customer's date of birth ~~or social security number~~) and the information required in 22.23(2)“d”(4)“3.” The independent third party must not be owned, managed, or directly controlled by the service provider or the service provider's marketing agent; must not have any financial incentive to confirm preferred service provider freeze requests for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred service provider freeze.

ITEM 4. Amend numbered paragraph **22.23(2)“d”(5)“2”** as follows:

2. A local exchange service provider administering a preferred service provider freeze must accept a customer's oral authorization stating the intention to lift a preferred carrier freeze and must offer a mechanism that allows a submitting service provider to conduct a three-way conference call with the service provider administering the freeze and the customer in order to lift a freeze. When engaged in oral authorization to lift a preferred service provider freeze, the service provider administering the freeze shall confirm appropriate verification data (e.g., the customer's date of birth ~~or social security number~~) and the customer's intent to lift the particular freeze.

ITEM 5. Amend subrule **22.23(2)** by adopting **new** paragraph **“e”** as follows:

e. Procedures in the event of sale or transfer of customer base. A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's customer base without obtaining each customer's authorization in accordance with 199 IAC 22.23(2)“a,”

provided that the acquiring carrier complies with the following procedures. A telecommunications carrier may not use these procedures for any fraudulent purpose, including any attempt to avoid liability for violations under 199 IAC 22.23(2)“a.”

(1) No later than 30 days before the planned transfer of the affected customers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file with the board a letter notifying the board of the transfer and providing the names of the parties to the transaction, the types of telecommunications services to be provided to the affected customers, and the date of the transfer of the customer base to the acquiring carrier. In the letter, the acquiring carrier also shall certify compliance with the requirement to provide advance customer notice in accordance with 199 IAC 22.23(2)“e”(3) and with the obligations specified in that notice. In addition, the acquiring carrier shall attach a copy of the notice sent to the affected customers.

(2) If, subsequent to the filing of the letter of notification with the board required by 199 IAC 22.23(2)“e”(1), any material changes to the required information develop, the acquiring carrier shall file written notification of these changes with the board no more than 10 days after the transfer date announced in the prior notification. The board may require the acquiring carrier to send an additional notice to the affected customers regarding such material changes.

(3) Not later than 30 days before the transfer of the affected customers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall provide written notice to each affected customer. The acquiring carrier must fulfill the obligations set forth in the written notice. The written notice must inform the customer of the following:

1. The date on which the acquiring carrier will become the customer's new provider of telecommunications service;

2. The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the customer's transfer to the acquiring carrier, and the means by which the acquiring carrier will notify the customer of any change(s) to these rates, terms, and conditions;

3. The acquiring carrier will be responsible for any carrier change charges associated with the transfer;

4. The customer's right to select a different preferred carrier for the telecommunications service(s) at issue, if an alternative carrier is available;

5. All customers receiving the notice, even those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the acquiring carrier unless they have selected a different carrier before the transfer date; existing preferred carrier freezes on the service(s) involved in the transfer will be lifted; and the customers must contact their local service providers to arrange a new freeze;

6. Whether the acquiring carrier will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring carrier; and

7. The toll-free customer service telephone number of the acquiring carrier.

ARC 3884B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 25, "Housing Fund," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3730B** on October 13, 2004. The IDEB Board adopted the amendment on November 18, 2004.

The amendment adds a new program element to the home ownership portion of the Housing Fund. This amendment implements recent federal program changes that allow for additional emphasis on down payment assistance to first-time homebuyers through the American Dream Downpayment Initiative (ADDI) program.

No comments concerning the proposed amendment were received from the public. A public hearing was held on November 2, 2004. There are no changes as a result of the public hearing, and the adopted amendment is identical to that published under Notice of Intended Action.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment, 35 days after publication, should be waived and the amendment should be made effective on November 19, 2004. This amendment confers a benefit on the public by establishing the updated application procedures prior to the final submission of applications.

The Department is taking the following steps to notify potentially affected parties about the effective date of the amendment: publishing the adopted amendment in the Iowa Administrative Bulletin, providing free copies of the rules on request, and having copies available wherever requests for information about the program are likely to be made.

This amendment is intended to implement Iowa Code section 15.108(1)"a" and 24 CFR Parts 91 and 92.

This amendment became effective on November 19, 2004.

The following amendment is adopted.

Amend rule 261—25.4(15) by adding the following new subrule:

25.4(4) Special provisions for the American Dream Downpayment Initiative (ADDI). The purpose of the ADDI program is to provide down payment assistance for the purchase of a principal residence. This program is available to low-income persons or households that are first-time homebuyers.

a. Applicant eligibility. Units of local government and nonprofit organizations may apply for ADDI funds.

b. Beneficiary requirements. Only first-time homebuyers (as defined in rule 261—25.2(15)) purchasing a principal residence and meeting income eligibility criteria may be the beneficiaries of ADDI assistance.

c. Eligible uses of funds. Only the purchase of single-family, single-unit housing may be assisted by the ADDI program and only in the following manner:

(1) As a down payment and reasonable or customary closing costs on the purchase of a principal residence. Reasonable costs include lender origination fees, credit report fees,

fees for title evidence, fees for recording and filing of legal documents, attorneys' fees and appraisal fees.

(2) As gap financing for the cost of acquisition of a principal residence for an eligible homebuyer.

d. Limitations on amounts of ADDI assistance.

(1) The maximum per unit assistance is \$10,000.

(2) The minimum per unit assistance is \$1,000.

(3) The maximum ADDI award per applicant is \$200,000.

e. ADDI program requirements. In addition to the housing fund program requirements stated within this chapter, the ADDI program requires specific federal regulations to be followed in the implementation of this program activity. Grant recipients must:

(1) Conduct targeted outreach to public housing tenants and families receiving rental assistance from public housing agencies to encourage low- and moderate-income (LMI) households to move from renting to home ownership.

(2) Ensure long-term affordability of all assisted units.

(3) Document income eligibility determination for all assisted units.

(4) Document that all assisted properties meet the property standards at 24 CFR 92.251.

(5) Require that all housing assisted with ADDI funds meet the HUD maximum per unit subsidy level.

(6) Meet all applicable cross-cutting federal regulations included in the HOME statute, including but not limited to federal regulations pertaining to nondiscrimination, fair housing practices, minority outreach, lead-safe housing regulations in assisted units constructed prior to January 1, 1978, and the Uniform Relocation Act (URA).

f. ADDI is considered as a separate home ownership assistance activity. ADDI funds may be used as a stand-alone activity or utilized in conjunction with another housing fund eligible home ownership activity.

[Filed Emergency After Notice 11/19/04, effective 11/19/04]

[Published 12/22/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/22/04.

ARC 3885B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 16, "State of Iowa Building Code," Iowa Administrative Code.

While provisions of the State of Iowa Building Code generally apply to buildings owned by the State of Iowa and to buildings and facilities constructed in local jurisdictions which have adopted the State of Iowa Building Code, rules regarding the accessibility of buildings and facilities to persons with disabilities apply statewide. Included within the accessibility requirements are standards for accessibility of multiple-unit dwellings.

Effective January 1, 2004, previous standards for accessibility contained in the State of Iowa Building Code were replaced with new provisions generally based on the federal Americans with Disabilities Act Accessibility Guidelines

PUBLIC SAFETY DEPARTMENT[661](cont'd)

(ADAAG). Although renumbered at that time, rule 661—16.720(103A,104A), which establishes accessibility standards for multiple-unit dwellings (apartment buildings), was retained because accessibility requirements for apartment buildings generally stem from the federal Fair Housing Act and are not covered by ADAAG.

In the rule making which became effective at the beginning of 2004, one provision regarding accessibility of apartment buildings was inadvertently rescinded because it was located in a rule other than the rule which specifies most of the accessibility requirements for these buildings. The rescinded provision required elevators in three-story buildings, but included an exception that required elevators in apartment buildings only if the apartment buildings were four or more stories. The amendment adopted herein restores the provision by adding to rule 661—16.720(103A,104A) a new subrule 16.720(2), which provides that elevators are required in apartment buildings of four or more stories, but not in apartment buildings of three or fewer stories.

The amendment further provides that elevators which are required by the new subrule must meet ADAAG specifications for accessible elevators but that elevators installed in apartment buildings of three or fewer stories are not subject to ADAAG accessibility requirements.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of this amendment is impractical. The inadvertent rescission of the previously existing provision regarding provision of elevators in apartment buildings has resulted in significant confusion and uncertainty about whether or when elevators are required. Immediate enactment of this amendment will forestall further confusion.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and this amendment should be made effective December 1, 2004, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by ensuring the

provision of elevators in apartment buildings of four or more stories, thereby enhancing accessibility to persons with disabilities.

This amendment is also published herein under Notice of Intended Action as **ARC 3886B** to allow for public comment and participation, including a public hearing, which will be held on January 18, 2005, at 11 a.m. in the conference room at the office of the Fire Marshal Division, 401 SW 7th Street, Des Moines, Iowa.

This amendment is intended to implement Iowa Code section 103A.7.

This amendment became effective on December 1, 2004.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend rule 661—16.720(103A,104A) by adding the following **new** subrule:

16.720(2) Elevators. An elevator shall be required in any apartment building of four or more stories. An elevator required by this subrule shall meet the requirements established for accessible elevators in rule 661—16.704(103A,104A), which adopts by reference section 4.10 of the Americans with Disabilities Act Accessibility Guidelines (28 CFR Part 36, Appendix A).

NOTE: Elevators are not required in apartment buildings of three or fewer stories. If an elevator is installed in an apartment building of three or fewer stories, then the elevator is not subject to the requirements of rule 661—16.704(103A,104A).

[Filed Emergency 11/24/04, effective 12/1/04]

[Published 12/22/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/22/04.

ARC 3901B**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5(11) and 163.1 and Iowa Code Supplement section 170.3, the Department of Agriculture and Land Stewardship hereby amends Chapter 64, "Infectious and Contagious Diseases," and Chapter 66, "Livestock Movement," Iowa Administrative Code.

The purpose of these amendments is to reinstate rules governing the monitoring of farm deer for chronic wasting disease that were rescinded in **ARC 3534B**, published in the July 21, 2004, Iowa Administrative Bulletin, due to a lack of financial resources available to continue implementation of a voluntary chronic wasting disease monitoring program for farm deer. However, recently the Department was successful in getting one-time federal funding which will permit reinstatement of the program for one year. These amendments do not reinstate the whitetail deer hunting preserve program for farmed whitetail deer. They also do not reinstate the fee schedule that had previously been in place to support these programs.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on September 29, 2004, as **ARC 3678B**. In addition, these amendments were simultaneously Adopted and Filed Emergency as **ARC 3676B**.

The Department received five written comments about the proposed amendments. As a result of the comments, one substantive change from the Notice has been made: Paragraph "d" of subrule 66.14(2) was changed to remove the requirement that Cervidae being moved intrastate must be either natural additions to the herd of origin or have been part of the herd of origin for at least one year prior to the movement. This requirement was, and still is, part of the Iowa import requirements for Cervidae, but was not intended to be applied to intrastate movement requirements. It was an oversight in the original drafting of the rules. Paragraph "d" now reads as follows:

"d. For CWD susceptible Cervidae, the certificate shall include the CWD herd premises number, the herd status level, the anniversary date, and the expiration date. The following statement must be included on the certificate:

"There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year."

No waiver provision is included in these amendments. However, the Department has a general rule which allows for waivers in appropriate cases. The waiver rule applies to these amendments.

The amendments to the chronic wasting disease program sunset on August 17, 2005, when federal funding for the program ceases.

These amendments are intended to implement Iowa Code chapter 163 and Iowa Code Supplement chapter 170.

These amendments will become effective January 26, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [64.34(10)"a," 64.35(6), 64.104 to 64.119, 66.14] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 3678B** and Adopted and Filed Emergency as **ARC 3676B**, IAB 9/29/04.

[Filed 12/3/04, effective 1/26/05]

[Published 12/22/04]

[For replacement pages for IAC, see IAC Supplement 12/22/04.]

ARC 3892B**ELDER AFFAIRS
DEPARTMENT[321]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby rescinds Chapter 20, "Older Iowans Legislature," Iowa Administrative Code.

The reasons for this action are:

1. The Department supports empowerment of seniors advocating on behalf of seniors. Therefore, the Department promotes transitioning the Older Iowans Legislature project to an independent and autonomous organization.

2. In its desire to expand its advocacy efforts, the Department continues to explore both outreach and educational opportunities related to aging that meet the needs of all Iowans and comply with both the federal Older Americans Act and the Elder Iowans Act.

3. Currently, there is no statutory authority for the Department to convene the Older Iowans Legislature, and there are no general fund moneys appropriated for this event.

4. The Department has worked in a collaborative manner with the Iowa Association of Area Agencies on Aging and Older Iowans Legislature leadership in exploring alternate advocacy initiatives related to the public policy efforts. These efforts appear to be successful.

Notice of Intended Action was published in the October 27, 2004, Iowa Administrative Bulletin as **ARC 3750B**. A public hearing was held over the Iowa Communications Network (ICN) on November 16, 2004. No comments were received.

The Commission adopted the amendment during the telephonic Commission meeting held on December 3, 2004.

This amendment will become effective on January 26, 2005.

The following amendment is adopted.

Rescind and reserve **321—Chapter 20**.

[Filed 12/3/04, effective 1/26/05]

[Published 12/22/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/22/04.

ARC 3894B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax," and Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVII, No. 9, p. 627 on October 27, 2004, as **ARC 3754B**.

Item 1 amends subrule 42.15(2) to eliminate, for individual income tax, the provision that for fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$500,000 of property rehabilitation tax credits is appropriated for projects located in cultural and entertainment districts certified by the Department of Cultural Affairs.

Item 2 rescinds and reserves rule 701—42.21(422) to eliminate, for individual income tax, the university-based research utilization program tax credit available to eligible businesses approved by the Iowa Department of Economic Development and to eligible employees of educational institutions who develop technologies for eligible businesses.

Item 3 amends subrule 52.18(2) to eliminate, for corporation income tax, the provision that for fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$500,000 of property rehabilitation tax credits is appropriated for projects located in cultural and entertainment districts certified by the Department of Cultural Affairs. This amendment is similar to the amendment in Item 1.

Item 4 rescinds and reserves rule 701—52.24(422) to eliminate, for corporation income tax, the university-based research utilization program tax credit available to eligible businesses approved by the Iowa Department of Economic Development and to eligible employees of educational institutions who develop technologies for eligible businesses. This amendment is similar to the amendment in Item 2.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective January 26, 2005, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement the Iowa Supreme Court decision in Rants v. Vilsack, 684 N.W. 2d 193 (Iowa 2004), which invalidated the enactment of provisions contained in 2003 Iowa Acts, First Extraordinary Session, House File 692, sections 110 through 113.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [42.15(2), 42.21, 52.18(2), 52.24] is being omitted. These amendments are identical to those published under Notice as **ARC 3754B**, IAB 10/27/04.

[Filed 12/3/04, effective 1/26/05]
[Published 12/22/04]

[For replacement pages for IAC, see IAC Supplement 12/22/04.]

ARC 3887B**TELECOMMUNICATIONS AND
TECHNOLOGY COMMISSION,
IOWA[751]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8D.3, the Iowa Telecommunications and Technology Commission hereby amends Chapter 1, "Description of Organization," Chapter 2, "Public Records and Fair Information Practices," Chapter 5, "Purchasing," Chapter 7, "Authorized Use and Users," Chapter 8, "Scheduling Disputes," Chapter 13, "Site Charges and Other Fees," Chapter 14, "Access to Facilities," and Chapter 18, "Procedure for Rule Making," and rescinds Chapter 6, "Contracts for Professional Services," Iowa Administrative Code.

The amendments are designed to update the Iowa Telecommunications and Technology Commission's rules to reflect recent organizational changes and changes to Iowa Code section 8D.13. These amendments consolidate professional services contracting rules into existing purchasing rules, and allow the Commission to join a purchasing cooperative or consortium using competitive bidding procedures to take advantage of cost-efficient pricing for telecommunications services for the agency and its authorized users. The amendments also clarify or add detail to agency administrative rules, and some amendments are nonsubstantive in nature.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on October 13, 2004, as **ARC 3713B**. No public comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 8D.

These amendments will become effective January 26, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend Chs 1, 2, 5, 7, 8, 13, 14, 18; rescind Ch 6] is being omitted. These amendments are identical to those published under Notice as **ARC 3713B**, IAB 10/13/04.

[Filed 12/1/04, effective 1/26/05]
[Published 12/22/04]

[For replacement pages for IAC, see IAC Supplement 12/22/04.]

ARC 3883B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 326.15, the Department of Transportation, on November 17, 2004, adopted amendments to Chapter 500, "Interstate Registration and Operation of Vehicles," Iowa Administrative Code.

TRANSPORTATION DEPARTMENT[761](cont'd)

Notice of Intended Action for these amendments was published in the October 13, 2004, Iowa Administrative Bulletin as **ARC 3712B**.

2004 Iowa Acts, chapter 1013, section 32, amends Iowa Code section 326.15 to allow qualified fleet owners to certify the destruction of credentials for motor vehicles registered under Iowa Code chapter 326. The amendments provide a means for qualified fleet owners to self-certify the destruction of International Registration Plan (IRP) credentials in lieu of returning the credentials to the Department to be destroyed. Definitions for “qualified fleet owner” and “self-certification of IRP credential destruction” are also added. Other changes to Chapter 500 include adding a new rule concerning fleet deletions and making editorial amendments.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 326 as amended by 2004 Iowa Acts, chapter 1013.

These amendments will become effective January 26, 2005.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [500.1, 500.4, 500.10 to 500.25] is being omitted. These amendments are identical to those published under Notice as **ARC 3712B**, IAB 10/13/04.

[Filed 11/19/04, effective 1/26/05]

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